

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/CS/HB 613 Higher Education

SPONSOR(S): Education Committee, Higher Education & Career Readiness Subcommittee, Rodrigues, R.

TIED BILLS: None **IDEN./SIM. BILLS:** CS/SB 1402

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Higher Education & Career Readiness Subcommittee	10 Y, 4 N, As CS	Sleap	Fudge
2) Higher Education Appropriations Subcommittee	10 Y, 1 N	Butler	Butler
3) Education Committee	15 Y, 0 N, As CS	Sleap	Hassell

SUMMARY ANALYSIS

The bill:

- Requires the Board of Governors (BOG) and the State Board of Education to report annually on the intellectual freedom and viewpoint diversity at each institution by conducting a survey.
- Creates the Florida Institute for Great Citizenship at Florida State University to create opportunities for civic engagement and public policy discussion and increase civic literacy and requires the institute to establish affiliate institutes at the University of Florida and Florida International University.
- Revises the data for academic and research excellence standards of preeminent institutions by using more timely performance data and requiring the standards to be reported annually in the BOG Accountability Plan and amends the criteria for preeminence to include the concordant ACT score.
- Creates State Universities of Distinction and requires the BOG to establish standards and measures which identify universities who are achieving excellence, meeting state workforce needs, and fostering an innovation economy.
- Modifies state university performance funding metrics to include metrics that focus on the success rate of “2+2” Associate in Arts (AA) degree transfer students and Pell Grant students; and prohibits the adjustment of such metrics once data has been received.
- Requires Florida College System (FCS) institutions and state universities be given the choice to provide either an opt-in or an opt-out provision to students regarding textbook and instructional materials affordability.
- Removes the limitation that prohibits a Phosphate Research and Activities Board member from serving more than 180 days after the expiration of his or her term, until a successor is appointed.
- Requires the BOG legislative budget request to include 5-year trend information on the number of faculty and administrators at each university along with the proportion of full-time equivalent (FTE) dedicated to instruction and research compared to administration and specifies that the growth rate of administrators at any state university may not exceed the growth rate of faculty.
- Requires the selection of a university president to be from at least three candidates.
- Provides that a university board of trustees may use other factors, including price, for the procurement of construction management and program management, as long as these factors comply with BOG regulations.
- Revises dates for state university and FCS institution reporting of end-of-year fund balances and authorizes a spending plan to include funds in a contingency reserve for expenses incurred as a result of a state emergency declared by the Governor.
- Aligns requirements for the financial aid programs in the Florida Student Assistance Grant program and aligns the requirements of the Benacquisto Scholarship Program to other state scholarship programs.

The bill would have a minimal fiscal impact on state colleges and universities. See Fiscal Analysis section.

Except as otherwise provided, the bill has an effective date of July 1, 2020.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Civic Literacy and Viewpoint Diversity

Present Situation

Viewpoint Diversity

In 2006, the American Association of Colleges and Universities (AAC&U) issued a statement on academic freedom and educational responsibility.¹ According to the AAC&U:

In any education of quality, students encounter an abundance of intellectual diversity—new knowledge, different perspectives, competing ideas, and alternative claims of truth. This intellectual diversity is experienced by some students as exciting and challenging, while others are confused and overwhelmed by the complexity. Liberal education, the nation’s signature educational tradition, helps students develop the skills of analysis and critical inquiry with particular emphasis on exploring and evaluating competing claims and different perspectives.

Diversity is defined by Merriam-Webster’s dictionary as “the condition of having or being composed of differing elements” and “the inclusion of different types of people (such as people of different races or cultures) in a group or organization.”² Colleges and universities have long sought to foster diversity on campus. However, recent events on multiple college campuses across the country have raised the question of whether diversity of thought is included in what appears to be an evolving definition of diversity.

Civic Literacy

The mission of Florida’s K-20 education system is to “allow its students to increase their proficiency by allowing them the opportunity to expand their knowledge and skills through rigorous and relevant learning opportunities.”³ Civic literacy and preparing students to become civically engaged and knowledgeable adults who positively contribute to their communities is a priority of the system.⁴

At the postsecondary level, the mission of Florida’s system of public postsecondary education is to “develop human resources, to discover and disseminate knowledge, to extend knowledge and its application beyond the boundaries of its campuses, and to develop in students heightened intellectual, cultural, and humane sensitivities; scientific, professional, and technological expertise; and a sense of purpose.”⁵ Inherent in this broad mission are methods of instruction, research, extended training, and public service designed to educate people and improve the human condition.”⁶

For Florida’s public state universities, the BOG’s approved mission for the university system as it advances toward 2025 states “the mission of the State University System of Florida is to provide undergraduate, graduate and professional education, research, and public service of the highest quality through a coordinated system of institutions of higher learning, each with its own mission and collectively dedicated to serving the needs of a diverse state and global society.”⁷

¹ Association of American Colleges and Universities, *Academic Freedom and Educational Responsibility*, AAC&U Board of Directors’ Statement (Jan. 2006), available at <https://www.aacu.org/sites/default/files/files/about/academicFreedom.pdf>.

² Diversity. In *The Merriam-Webster.com Dictionary*. Retrieved Feb. 26, 2019, from <https://www.merriam-webster.com/dictionary/diversity>.

³ Section 1000.03(4), F.S.

⁴ Section 1000.03(5)(c), F.S.

⁵ Section 1004.01(2), F.S.

⁶ *Id.*

⁷ Florida Board of Governors, *2025 System Strategic Plan* (Amended Oct. 2019), at 8, available at https://www.flbog.edu/wp-content/uploads/2025_System_Strategic_Plan_2019.pdf.

Effect of Proposed Changes

The bill requires the Board of Governors (BOG) and the State Board of Education (SBE) to annually report on the intellectual freedom and viewpoint diversity at each state university system (SUS) and Florida College System (FCS) institution by conducting a survey of students, faculty and administrators. The survey must be selected or created by the BOG and the SBE and be objective, non-partisan, and statistically valid. The survey must be used by each institution to assess the extent to which members of the state university and state college community feel comfortable expressing their beliefs and viewpoints on campus and in the classroom. The first report must be published by September 1, 2021 and annually thereafter.

To advance the mission of Florida's public education system, the bill creates the Florida Institute for Great Citizenship at Florida State University (FSU). The purpose of the Institute is to provide Floridians with a bipartisan, world-class institute for intellectual diversity. The goals of the institute are to:

- Create undergraduate, graduate, post-doctoral and professional-level fellowship opportunities for advanced study in civic literacy and engagement, political history, public policy, government institutions, debate and civic discourse.
- Create regular forums for civic engagement and public policy discussions that are open to all students and the general public, thereby fostering civil discourse and the development of public policy research.
- Create a shared understanding of government institutions, their history and the development of public policy through the publishing of publicly accessible research and materials.
- Create a curriculum for educating K-12 and postsecondary students on how to engage government and become great advocates for themselves and their community.
- Become a national and state resource on polling information and survey methodology.
- Establish affiliate institutes at the University of Florida (UF) with a focus on American Ideals and at Florida International University (FIU) with a focus on Free Market Economics.

Board of Governors Duties – Presidential Selection

Present Situation

The BOG has the authority to regulate the SUS pursuant to Art. IX, s. 7(d) of the State Constitution and the Florida Statutes.⁸ The BOG may develop procedures for adopting regulations to implement its constitutional duties.⁹

Each state university is administered by a board of trustees,¹⁰ however, the BOG establishes the powers and duties of the boards of trustees and may delegate its constitutional or statutory powers and duties to the boards of trustees as its designee.¹¹ The BOG establishes the personnel system for all state university employees and confirms the selection and reappointment of presidents by state university boards of trustees.¹²

A university board of trustees is responsible for conducting a search and selecting a candidate to serve as president.¹³ The board of trustees must ensure the search process is transparent, robust, and designed to attract highly qualified individuals.¹⁴ To fill a vacant president position, state universities

⁸ Sections 20.155 and 1001.70-1001.706, F.S. *see also* s. 1001.705(a) and (d), F.S., defining the terms “Board of Governors” and “state universities” as used in the Florida K-20 Education Code.

⁹ Section 1001.706(2), F.S.

¹⁰ Article IX, s. 7(b)-(c), FLA. CONST.; *see also* s. 1001.72(2), F.S.

¹¹ Article IX, s. 7(c), FLA. CONST.; *see also* s. 1001.706(2)(b), F.S.

¹² Sections 1001.705(2)(k) and 1001.706(6)(a), F.S.; *see also* Florida Board of Governors, Regulation 1.001 University Board of Trustees Powers and Duties, (5)(c), *available at* https://www.flbog.edu/wp-content/uploads/1_001-PowersandDuties.pdf.

¹³ Florida Board of Governors, Regulation 1.002 Presidential Search and Selection, (1), *available at* <https://www.flbog.edu/wp-content/uploads/1.002-Presidential-Search-and-Selection.pdf>.

¹⁴ *Id.*

often establish search committees.¹⁵ A search committee is appointed by the chair of the board of trustees, in consultation with the chair of the BOG, and must be comprised of no more than 15 members.¹⁶ The committee is responsible for ensuring transparency of the selection process, vetting and interviewing applicants, and recommending an unranked list of applicants who are qualified for consideration and on-campus interviews by the board of trustees.¹⁷ The search committee is required to submit more than two qualified applicants to the board of trustees for consideration, other than in exceptional circumstances making fulfillment of the requirement impossible.¹⁸

Prior to confirmation of a university president, the board of trustees must submit a description of the selection process and criteria, the qualifications of the selected candidate, and a copy of the proposed employment contract to the BOG for its consideration in confirming the candidate.¹⁹ The candidate selected by the board of trustees must appear at the BOG meeting where confirmation of the candidate will be considered.²⁰

Effect of Proposed Changes

The bill requires the selection of a president by a university board of trustees to be from at least three candidates.

Preeminent State Research Universities Program

Present Situation

The Preeminent State Research Universities Program is a collaborative partnership between the BOG and the Legislature to raise the academic and research preeminence of the highest performing state research universities in Florida.²¹ A state university that meets 11 of the 12 academic and research excellence standards specified in law is designated a “preeminent state research university.”²² The academic and research excellence standards include: incoming freshman academic characteristics (average weighted GPA and average SAT score); institutional ranking nationally; freshman retention rate; four-year graduation rate; national academy membership of institution faculty; research expenditures; research expenditure national ranking; patents awarded annually; doctoral degrees awarded annually; postdoctoral appointees annually; and institutional endowment.²³ Currently, UF, FSU, and the University of South Florida (USF) are designated as preeminent state research universities.²⁴

A state research university that meets at least 6 of the 12 standards is designated as an “emerging preeminent state research university.”²⁵ Each designated emerging preeminent state research

¹⁵ Florida Board of Governors, Regulation 1.001 University Board of Trustees Powers and Duties, (5)(c), *available at* https://www.flbog.edu/wp-content/uploads/1_001-PowersandDuties.pdf; *see also* Florida Board of Governors, Regulation 1.002 Presidential Search and Selection, *available at* <https://www.flbog.edu/wp-content/uploads/1.002-Presidential-Search-and-Selection.pdf>.

¹⁶ Florida Board of Governors, Regulation 1.002 Presidential Search and Selection, (1)(a), *available at* <https://www.flbog.edu/wp-content/uploads/1.002-Presidential-Search-and-Selection.pdf>.

¹⁷ *Id.* at (c)i.-viii.

¹⁸ *Id.* at (c)viii.

¹⁹ Florida Board of Governors, Regulation 1.001 University Board of Trustees Powers and Duties, (5)(c), *available at* https://www.flbog.edu/wp-content/uploads/1_001-PowersandDuties.pdf.

²⁰ *Id.*

²¹ Section 1001.7065(1), F.S.

²² Section 1001.7065(3)(a), F.S.

²³ Section 1001.7065(2), F.S. The research expenditures standards are comprised of two measures, one for total annual research expenditures, including federal research expenditures, of \$200 million or more as reported by the National Science Foundation (NSF), and the other for total annual research expenditures in diversified nonmedical sciences of \$150 million or more, based on data reported annually by the NSF.

²⁴ Florida Board of Governors, State University System of Florida, *System Accountability Plan 2019*, at 10, *available at* https://www.flbog.edu/wp-content/uploads/2019_System_Accountability_Plan_FINAL_2019-10-30.pdf. The University of South Florida Tampa Campus met the preeminent state research university designation.

²⁵ Section 1001.7065(3)(b), F.S.

university receives an amount of funding that is equal to one-quarter of the total increased amount awarded to each designated preeminent state research university.

In addition to preeminent and emerging preeminent state research universities, the BOG is required to identify standards and measures to identify Programs of Excellence across the SUS system.²⁶ The program allows individual undergraduate, graduate, and professional degree programs achieving national excellence at a state university to be identified and recommendations made to the Legislature identifying ways to enhance and promote these Programs of Excellence.²⁷

Effect of Proposed Changes

The bill requires the academic and research excellence standards for preeminent state research universities be reported annually in the BOG Accountability Plan and amends the standards to provide the BOG with the flexibility to access and utilize the most up to date data available.

The academic and research excellence standard for incoming freshman academic characteristics is revised to remove an outdated SAT score scale and adds to the academic characteristics a student's average ACT score of 25 or higher on a 36 score scale.²⁸ The bill requires the use of the national concordance table developed jointly by the College Board and ACT, Inc. to ensure accurate reporting of scores across the SAT and ACT.

The bill removes funding associated with the emerging preeminent state research university designation and creates State Universities of Distinction. The BOG must establish standards and measures for State Universities of Distinction which help identify universities that:

- focus on a core competency unique to the SUS and also achieve excellence at the national or state level;
- meet state workforce needs; and
- fosters an innovation economy that focuses on areas such as health care, security, transportation, and science, technology, engineering, and mathematics (STEM), including supply chain management.

By January 1, the BOG may annually submit to the Legislature for funding identified programs from institutions that have not achieved preeminent designation.

These proposed changes are effective upon becoming law.

State University System Performance-Based Incentive

Present Situation

The SUS Performance-Based Incentive is awarded to state universities using performance-based metrics²⁹ adopted by the BOG.³⁰ The BOG performance funding model is based on four guiding principles:

²⁶ Section 1001.7065(7), F.S.

²⁷ Florida Board of Governors, State University System of Florida, *Programs of Excellence Report* (Sept. 2018), available at https://www.flbog.edu/wp-content/uploads/0273_1154_8738_10.3.2-AREC-03b-Programs-of-Excellence-Report_CE.pdf.

²⁸ See 2018 ACT/SAT Concordance Tables, *Table A2*, available at <https://www.act.org/content/dam/act/unsecured/documents/ACT-SAT-Concordance-Tables.pdf>; see also Students applying for admission as an undergraduate first time in college degree seeking student to a state university system institution are required to submit SAT scores from the College Board or ACT scores from ACT, Inc. see Florida Board of Governors, Regulation 6.002 Admission of Undergraduate First-Time-in-College, Degree-Seeking Freshman, at (1)(e), available at https://www.flbog.edu/wp-content/uploads/6.002FTICAdmissionsTechnicalchange2018_08_17-1.pdf.

²⁹ Florida Board of Governors, *Board of Governors Performance Funding Model Overview* (Nov. 2019), available at <https://www.flbog.edu/wp-content/uploads/Overview-Doc-Performance-Funding-10-Metric-Model-Condensed-Version-Nov-2019.pdf>.

³⁰ Section 1001.92(1), F.S.

- use metrics that align with strategic plan goals;
- reward excellence or improvement;
- have a few clear, simple metrics; and
- acknowledge the unique mission of the different institutions.

The BOG model contains ten performance metrics that evaluate each state university on the following:³¹

1. Percent of bachelor's degree graduates employed (earning \$25,000+) or continuing their education
2. Median wages of Bachelor's graduates employed full-time
3. Average cost to the student (net tuition per 120 credit hours)
4. Four year graduation rate (full-time First-Time-In-College)
5. Academic progress rate (2nd year retention with GPA above 2.0)
6. Bachelor's degrees awarded in areas of strategic emphasis
7. University access rate (percent of undergraduates with a Pell Grant)
8. a. Graduate degrees awarded in areas of strategic emphasis
b. Freshman in the top 10% of graduating high school class
9. BOG Choice- Percent of Bachelor's degrees awarded without excess hours
10. Institution Board of Trustees Choice³²

Metrics one through seven apply to all institutions. The eighth metric includes an alternative metric, 8b, for New College of Florida. Two of the ten metrics, metric 9 and 10, are choice metrics, one picked by the BOG and one by the university boards of trustees.

Institutions receive scores on each metric based on the achievement of both excellence and improvement.³³ The lowest benchmark receives one point, while the highest receives ten points. The higher of the two scores (excellence and improvement) for each metric is applied to the overall score for each institution.

The performance funding model includes both a state investment (appropriated by the Legislature) for performance funding and an institutional investment which is a matched amount reallocated from the university system base budget. These "institutional base" funds are the cumulative recurring state appropriations that the Legislature has appropriated to each institution.³⁴ In fiscal year 2019-2020, performance funding included a state investment of \$265,000,000 and an institutional investment of \$295,000,000.³⁵

The state investment is allocated based on points earned, with a maximum of 100 points possible. Institutions are eligible for their proportional amount of the state's investment if they: score within the top three institutions; score the same or higher than the previous year; or score less than the previous year, but the previous year's score was higher or the same as the year before. Any institution with a score the same or lower than the previous year's score for two consecutive years, must submit a

³¹ Florida Board of Governors, *Board of Governors Performance Funding Model Overview* (Nov. 2019), available at <https://www.flbog.edu/wp-content/uploads/Overview-Doc-Performance-Funding-10-Metric-Model-Condensed-Version-Nov-2019.pdf>.

³² Each Board of Trustees selects a metric from the University Work Plan that is applicable to the mission of the university and has not been previously chosen for the model.

³³ Benchmarks for Excellence were based on the BOG 2025 System Strategic Plan goals and analysis of relevant data trends. Benchmarks for Improvement were determined after reviewing data trends for each metric. Performance Funding Model Overview, *supra* note 10.

³⁴ Florida Board of Governors, *Board of Governors Performance Funding Model Overview* (Nov. 2019), available at <https://www.flbog.edu/wp-content/uploads/Overview-Doc-Performance-Funding-10-Metric-Model-Condensed-Version-Nov-2019.pdf>.

³⁵ Specific Appropriation 147, s. 2, ch. 2019-115, L.O.F.

student success plan to the BOG in order to be eligible for their proportional amount of the state's investment (baseline scores begin with the June 2018 results).³⁶

The institutional investment is also allocated based on points earned, with a maximum of 100 points possible. Any institution that fails to meet the BOG's minimum performance funding threshold (a total score of less than 56 points)³⁷ has a portion of its institutional investment withheld, and is required to submit an improvement plan that specifies the activities and strategies for improving its performance.³⁸ A state university may submit an improvement plan for only one fiscal year.

Effect of Proposed Changes

The bill requires that beginning in fiscal year 2021-2022, the performance-based incentive metrics include:

- a single graduation rate metric comprised of 4-year graduation rates for first-time-in-college students and 2-year graduation rates for FCS institution Associate in Arts (AA) transfer students; and
- the 6-year graduation rate for students who are awarded a Pell Grant in their first year.

The bill authorizes the BOG to approve other metrics in a publicly noticed meeting and prohibits benchmarks and metrics from being adjusted after university performance data has been received by the BOG.

Textbook and Instructional Materials Affordability

Present Situation

Current law authorizes each FCS institution and state university board of trustees to adopt policies in consultation with providers, including bookstores, which allow for the use of innovative pricing techniques and payment options for textbooks and instructional materials.³⁹ Innovative pricing techniques and payment options must include an opt-in provision for students and may be approved only if there is documented evidence that the options reduce the cost of textbooks and instructional materials for students taking a course.⁴⁰

Effect of Proposed Changes

³⁶ Section 1001.92(2), F.S.; Florida Board of Governors, *Board of Governors Performance Funding Model Overview* (Nov. 2019), available at <https://www.flbog.edu/wp-content/uploads/Overview-Doc-Performance-Funding-10-Metric-Model-Condensed-Version-Nov-2019.pdf>; In Nov. 2018 the BOG approved new changes to the allocation methodology eliminating the bottom three requirement which prevented the three lowest scoring institutions from being eligible for the state's investment. In addition, beginning with the 2021-22 fiscal year, if a university's score is below 70 points, it will only be eligible to receive 50% of its prorated state investments after successfully implementing a student success plan. Florida Board of Governors, *Performance Funding Model, Approved Changes to the Model 2019-20*, available at https://www.flbog.edu/wp-content/uploads/Changes_2019-20.pdf.

³⁷ The performance funding threshold for institutional investment was previously set at a total score of less than 51 points. The BOG approved changes to the threshold in Oct. 2019 effective immediately, increasing the threshold incrementally to 55 for 2020 and 60 for 2021. Florida Board of Governors, *Performance Funding Model, Approved Changes to the Model 2020-21*, available at <https://www.flbog.edu/wp-content/uploads/Changes-2020-21.pdf>.

³⁸ Section 1001.92(3)(a)-(b), F.S.; Florida Board of Governors, *Board of Governors Performance Funding Model Overview* (Nov. 2019), available at <https://www.flbog.edu/wp-content/uploads/Overview-Doc-Performance-Funding-10-Metric-Model-Condensed-Version-Nov-2019.pdf>.

³⁹ Section 1004.085(4), F.S.

⁴⁰ *Id.*

The bill authorizes FCS institutions and state universities to provide either an opt-in or opt-out provision to students within their innovative pricing techniques and payment options for textbooks and instructional materials.

Phosphate Research and Activities Board

Present Situation

The Florida Industrial and Phosphate Research Institute is housed within Florida Polytechnic University (FPU)⁴¹ and the Phosphate Research and Activities Board is tasked with monitoring the expenditure of funds appropriated to FPU from the Phosphate Research Trust Fund.⁴² The board consists of five members.⁴³ The Governor is required to appoint two persons representing the phosphate mining or processing industry and one member representing a major environmental conservation group in the state.⁴⁴ The Secretary of Environmental Protection or his or her designee and the president of FPU are required to serve as board members.⁴⁵

Members of the board appointed by the Governor are appointed to 3-year terms.⁴⁶ A board member may continue to serve until a successor is appointed, but not more than 180 days after the expiration of his or her term.⁴⁷ A board member is eligible for reappointment to subsequent terms.⁴⁸

Effect of Proposed Changes

Effective upon becoming law, the bill removes the limitation that a board member may not serve more than 180 days after the expiration of his or her term, which prevents vacancies on the board by allowing that member to serve on the board until a replacement is appointed or that member is reappointed.

State University System Faculty/Administrator Ratios

Present Situation

The Office of Program Policy Analysis and Government Accountability (OPPAGA) reports that from 2010 through 2014, Florida's state universities reduced the ratio of students to administrators (meaning the number of administrators was growing faster than the number of students) while student to full-time faculty ratios increased slightly.⁴⁹ Additionally, from 2010 to 2016, the number of staff with administrative duties increased at a faster rate than that of students or full-time faculty.⁵⁰

Effect of Proposed Changes

The bill requires the BOG legislative budget request to include 5-year trend information on the number of faculty and administrators at each university along with the proportion of full-time equivalent (FTE) dedicated to instruction and research compared to administration. The BOG must define faculty and administrative personnel classifications in regulation and these definitions must be included in the

⁴¹ Section 1004.346(1), F.S.

⁴² Section 1004.346(2), F.S.

⁴³ Section 1004.346(2)(b), F.S.

⁴⁴ *Id.*

⁴⁵ *Id.*

⁴⁶ Section 1004.346(2)(c), F.S.

⁴⁷ *Id.*

⁴⁸ *Id.*

⁴⁹ Office of Program Policy Analysis and Government Accountability, *OPPAGA Research on State University System Administrative Positions and Salaries*, Presentation to the House Higher Education Appropriations Subcommittee (Mar. 14, 2017), at 117, available at

<https://www.myfloridahouse.gov/Sections/Documents/loaddoc.aspx?PublicationType=Committees&CommitteeId=2896&Session=2017&DocumentType=Meeting%20Packets&FileName=hea%203-14-17.pdf>.

⁵⁰ *Id.* at 115.

legislative budget request. The bill specifies that the growth rate of administrators at any state university may not exceed the growth rate of faculty.

Educational Facilities

Present Situation

District school boards and boards of trustees of a FCS institution and state university may use procedures to contract for construction of new facilities, or for additions, remodeling, renovation, maintenance, or repairs to existing facilities.⁵¹ The procedures, include, but are not limited to:

- Competitive bids.
- Design-build.⁵²
- Selection of a construction management entity.⁵³
- Selection of a program management entity.⁵⁴
- Day-labor⁵⁵ contracts.⁵⁶

Boards must use the services of a registered architect for the development of plans for the erection, enlargement, or alteration of any educational facility, unless otherwise provided in law.⁵⁷ The services of a registered architect are not required for minor renovation projects that have a construction cost of less than \$50,000.⁵⁸

⁵¹ Section 1013.45(1), F.S.

⁵² Section 1013.45(1)(b), F.S. Design-build must be pursuant to s. 287.055, F.S. the “Consultants’ Competitive Negotiation Act.”

⁵³ Section 1013.45(1)(c), F.S. Selection of a construction management entity must be pursuant to s. 255.102, F.S. or the process provided in s. 287.055, F.S.

⁵⁴ Section 1013.45(1)(d), F.S. Selection of a program management entity must be pursuant to s. 255.103, F.S. or the process provided by s. 287.055, F.S.

⁵⁵ Section 1013.45(2), F.S. “Day-labor contract” means a project constructed using persons employed directly by a board or by contracted labor. Day-labor contracts may not exceed \$280,000 for construction, renovation, remodeling, or maintenance of existing facilities. s.1013.45(1)(e), F.S.

⁵⁶ Section 1013.45(1)(a)-(e), F.S.

⁵⁷ Section 1013.45(4), F.S.

⁵⁸ *Id.*

Unless otherwise provided in law, the negotiation procedures applicable to construction management contracts and the design-build process must comply with the requirements of the “Consultants’ Competitive Negotiation Act.”⁵⁹ The Act provides that when professional services⁶⁰ must be purchased for a project in which construction costs exceed a specified threshold, each public agency must make a public announcement and provide a general description of the project.⁶¹ In addition to the announcement, the agency must conduct a competitive selection process, competitively negotiate a contract, and ensure that the contract provides a prohibition against contingent fees.⁶²

Current law provides that a board may not modify any rules regarding construction management contracts or the design-build process.

For Florida’s state universities, the BOG must develop guidelines for university boards of trustees for the acquisition of real and personal property and the sale and disposal thereof and the approval and execution of contracts for the purchase, sale, lease, license, or acquisition of commodities, goods, equipment, contractual services, leases of real and personal property, and construction.⁶³ Each board of trustees of a state university must comply with the requirements of the “Consultants’ Competitive Negotiation Act.”⁶⁴

Effect of Proposed Changes

The bill provides that university boards of trustees may use other factors, including price, for the procurement of construction management and program management. The additional factors must comply with BOG regulations.

The bill also repeals a provision prohibiting district school boards and boards of trustees of a FCS institution and state university from modifying any rules regarding construction management contracts or the design build process.

Florida Student Assistance Grant Program

Present Situation

The Florida Student Assistance Grant (FSAG) Program, created in 1972, is Florida’s largest need-based grant program.⁶⁵ The FSAG Program consists of four student financial aid programs:

- FSAG Public;
- FSAG Public Postsecondary Career Education;
- FSAG Private; and
- FSAG Postsecondary.⁶⁶

The FSAG Program is available to degree- and certificate-seeking undergraduate Florida residents who demonstrate substantial financial need and are enrolled in participating postsecondary institutions.⁶⁷

⁵⁹ *Id.*

⁶⁰ Section 287.055(2)(a), F.S. “Professional services” means those services within the scope of the practice of architecture, professional engineering, landscape architecture, or registered surveying and mapping, as defined by the laws of the state, or those performed by any architect, professional engineer, landscape architect, or registered surveyor and mapper in connection with his or her professional employment or practice.

⁶¹ Section 287.055(3), F.S.

⁶² Section 287.055(4)-(6), F.S.

⁶³ Section 1001.706(7)(a), F.S.

⁶⁴ Section 1001.706(7)(a), F.S.; *see also* s. 287.055, F.S. the “Consultants’ Competitive Negotiation Act.”

⁶⁵ Florida Department of Education, Office of Student Financial Assistance, *Annual Report to the Commissioner 2018-19*, at 11, available at <https://www.floridastudentfinancialaidsg.org/pdf/annualreportcurrent.pdf>.

⁶⁶ *Id.*

⁶⁷ *Id.*

A FSAG award, in combination with other financial aid, may not exceed a student’s demonstrated financial need.⁶⁸ Financial need is determined by the institutional cost of attendance, less the Expected Family Contribution (EFC)⁶⁹ as determined by the Free Application for Federal Student Aid (FAFSA), less aid from other sources such as federal grants, state grants and institutional aid (not including loans).⁷⁰ The program is administered by participating institutions in accordance with state board rule.⁷¹

In FY 2019-2020, a total of \$269,396,012⁷² was appropriated for the program, with award amounts ranging from a maximum of \$2,610 to a minimum of \$200.⁷³ The current maximum award amount of \$2,610 has not changed since 2013.⁷⁴

The FSAG Program provides state student assistance grants to students who meet general eligibility requirements⁷⁵ and qualifications specific to each program. The table below provides an overview of the specific provisions for each of the four student financial aid programs included in the FSAG Program.

	FSAG Public	FSAG Career Education	FSAG Private	FSAG Postsecondary
Student Eligibility ⁷⁶	Degree-seeking and enrolled in at least 6 hours per term at a state university or FCS institution. ⁷⁷	Certificate-seeking and enrolled in at least 180 clock hours per term ⁷⁸ at a career center or FCS institution. ⁷⁹	Degree-seeking and enrolled full-time at and eligible independent non-profit college or university. ⁸⁰	Degree-seeking and enrolled full-time at an eligible private nursing school or an eligible independent college or university. ⁸¹
Award Amount	Between \$200 and the weighted average of the	Between \$200 and the student’s unmet need for	Between \$200 and the amount of demonstrated	Between \$200 and the amount of demonstrated

⁶⁸ Florida Department of Education, Office of Student Financial Assistance, *Annual Report to the Commissioner 2018-19*, at 11, available at <https://www.floridastudentfinancialaidsg.org/pdf/annualreportcurrent.pdf>.

⁶⁹ Expected Family Contribution (EFC) is calculated according to a formula established by law which considers a student’s family size, number of family members who will attend college or career school during the year, the family’s taxed and untaxed income, assets, and benefits, such as unemployment for Social Security. U.S. Department of Education, Federal Student Aid, *How Aid is Calculated*, <https://studentaid.gov/complete-aid-process/how-calculated> (last visited Feb. 26, 2020).

⁷⁰ *Id.*

⁷¹ Section 1009.50(6), 1009.505(5), 1009.51(6), and 1009.52(7), F.S.; see also rule 6A-20.031, F.A.C.; Postsecondary educational administrative responsibilities for state student aid and tuition assistance programs are outlined in rule 6A-20.002, F.A.C.

⁷² Specific Appropriation 75, s.2, ch. 2019-115, L.O.F.

⁷³ Florida Department of Education, Office of Student Financial Assistance, *Annual Report to the Commissioner 2018-19*, at 5, available at <https://www.floridastudentfinancialaidsg.org/pdf/annualreportcurrent.pdf>.

⁷⁴ See Specific Appropriation 61, s. 2, ch. 2012-118, L.O.F. maximum award amount of \$2,534 and Specific Appropriation 66, s. 2, ch. 2013-40, L.O.F. maximum award amount of \$2,610.

⁷⁵ Section 1009.40, F.S.

⁷⁶ A demonstrated unmet need of less than \$200 renders an applicant ineligible for a state student assistance grant. Sections 1009.50(2)(a), 1009.505(3)(a), 1009.51(2)(a), and 1009.52(2)(a), F.S.

⁷⁷ Section 1009.50(2)(a), F.S.; see also Florida Department of Education, Office of Student Financial Assistance, *Annual Report to the Commissioner 2018-19*, at 11, available at <https://www.floridastudentfinancialaidsg.org/pdf/annualreportcurrent.pdf>. A student must be enrolled for a minimum of 12 credits for a full-time award, 9 credits for a three-quarter time award, or 6 credits for a half-time award. rule 6A-20.031, F.A.C.

⁷⁸ Section 1009.505(2)(b), F.S. “Half-time” means the equivalent in clock hours at a public postsecondary career certificate program of 6 semester credit hours at a FCS institution.; see also s. 1009.505(2)(c), F.S. “Public postsecondary career certificate program” means a postsecondary program that consists of 450 or more clock hours, is offered by a FCS institution or by a career center operated by a district school board and terminates in a career certificate.

⁷⁹ Section 1009.505(3)(a), F.S.; see also Florida Department of Education, Office of Student Financial Assistance, *Annual Report to the Commissioner 2018-19*, at 11, available at <https://www.floridastudentfinancialaidsg.org/pdf/annualreportcurrent.pdf>.

⁸⁰ Section 1009.51(2)(a), F.S.

⁸¹ Section 1009.52(2)(a)1.-2., F.S. The private nursing diploma school but be approved by the Florida Board of Nursing and an eligible independent college or university includes institutions licensed by the Commission for Independent Education and not include institutions eligible under the Florida Private Student Assistance Grant.

	cost of tuition and other registration fees for 30 credit hours at state universities per academic year or the amount specified in the General Appropriations Act (GAA). ⁸²	the cost of education, which may not exceed the average annual cost of tuition and other registration fees, or as specified in the GAA. ⁸³	unmet need for tuition and fees, not to exceed an amount equal to the average tuition and other registration fees for 30 credit hours at state universities plus \$1,000 per academic year, or as specified in the GAA. ⁸⁴	unmet need for tuition and fees, not to exceed an amount equal to the average cost of tuition and other registration fees for 30 credit hours at state universities plus \$1,000 per academic year, or as specified in the GAA. ⁸⁵
Grant Award Priority	Priority given to students with the lowest total family resources. ⁸⁶	None.	Priority given to students with the lowest total family resources. ⁸⁷	Priority given to students with the lowest total family resources. ⁸⁸
Formula for Distribution of Funds	Prior year's distribution, number of eligible full-time applicants not awarded, EFC, and unused funds. ⁸⁹	Distributed in accordance with formula approved by the SBE. ⁹⁰	Prior year's distribution, number of eligible full-time applicants not awarded, EFC, and unused funds. ⁹¹	Prior year's distribution, number of eligible full-time applicants not awarded, EFC, and unused funds. ⁹²
Institution Reporting Requirements	Report to the DOE eligible students who received an award. ⁹³	Report to the DOE eligible students who received an award. ⁹⁴	Report to the DOE eligible students who received an award. ⁹⁵	Report to the DOE eligible students who received an award. ⁹⁶

⁸² Section 1009.50(3), F.S.; Specific Appropriation 75, s.2, ch. 2019-115, L.O.F. provided a maximum grant award of \$2,610.

⁸³ Section 1009.505(3)(a), F.S.

⁸⁴ Section 1009.51(3), F.S.; section 1009.51(2)(a), F.S. An eligible independent nonprofit college or university is accredited by the Commission on Colleges of the Southern Association of Colleges and Schools and is located in and chartered as a domestic corporation by the state.

⁸⁵ Section 1009.52(3), F.S.

⁸⁶ Section 1009.50(2)(c), F.S. Priority in the distribution of grant moneys shall be given to students with the lowest total family resources, in accordance with a nationally recognized system of need analysis. Using the system of need analysis, the department shall establish a maximum expected family contribution.

⁸⁷ Section 1009.51(2)(c), F.S.

⁸⁸ Section 1009.52(2)(c), F.S.

⁸⁹ Section 1009.50(4)(a), F.S. The formula shall consider at least the prior year's distribution of funds, the number of full-time eligible applicants who did not receive awards, the standardization of the expected family contribution, and provisions for unused funds.

⁹⁰ Section 1009.505(4)(a), F.S. The funds appropriated for the FSAG Career Education Program shall be distributed to eligible FCS institutions and district school boards in accordance with a formula approved by the DOE.

⁹¹ Section 1009.51(4)(a), F.S. The formula shall consider at least the prior year's distribution of funds, the number of full-time eligible applicants who did not receive awards, the standardization of the expected family contribution, and provisions for unused funds.

⁹² Section 1009.52(4)(a), F.S. The formula shall consider at least the prior year's distribution of funds, the number of full-time eligible applicants who did not receive awards, the standardization of the expected family contribution, and provisions for unused funds.

⁹³ Section 1009.50(2)(d) and (4)(d), F.S.

⁹⁴ Section 1009.505(3)(c) and (4)(d), F.S.

⁹⁵ Section 1009.51(2)(d) and (4)(d), F.S.

⁹⁶ Section 1009.52(2)(d) and (4)(d), F.S.

Audit Requirements	None.	None.	Biennial financial and program audit. ⁹⁷	Biennial financial and program audit. ⁹⁸
State Student Financial Assistance Trust Fund (SSFATF)	Provisions provide that funds appropriated may be deposited into SSFATF. ⁹⁹	No provision.	Provisions provide that funds appropriated may be deposited into SSFATF. ¹⁰⁰	Provisions provide that funds appropriated may be deposited into SSFATF. ¹⁰¹

For each of the FSAG programs, except FSAG Career Education, the DOE is required to establish a maximum EFC that is used in determining eligibility to receive a grant award.¹⁰² For the 2019-2020 academic year, the DOE determined the following maximum EFC:

- FSAG Public – maximum EFC 5576
- FSAG Private – maximum EFC 6080
- FSAG Postsecondary – maximum EFC 5576¹⁰³

For the 2018-2019 FY, the following amounts were disbursed for the FSAG Program and its four student financial aid programs:

FSAG Program	Total Dollars Disbursed	Number of Students Awarded	Average Award Amount
FSAG Public	\$234,334,619 ¹⁰⁴	156,301 ¹⁰⁵	\$1,499.25 ¹⁰⁶
FSAG Career Education	\$3,144,476 ¹⁰⁷	4,305 ¹⁰⁸	\$730.42 ¹⁰⁹
FSAG Private	\$24,500,519 ¹¹⁰	16,338 ¹¹¹	\$1,499.60 ¹¹²
FSAG Postsecondary	\$6,799,009 ¹¹³	6,281 ¹¹⁴	\$1,082.47 ¹¹⁵

Effect of Proposed Changes

⁹⁷ Section 1009.51(4)(e), F.S. The DOE may conduct its own annual or biennial audit of an institution's administration of the program and its allocated funds in lieu of the required biennial report and financial audit report.

⁹⁸ Section 1009.52(4)(e), F.S. The DOE may conduct its own annual or biennial audit of an institution's administration of the program and its allocated funds in lieu of the required biennial report and financial audit report.

⁹⁹ Section 1009.50(5), F.S.

¹⁰⁰ Section 1009.51(5), F.S.

¹⁰¹ Section 1009.52(6), F.S.

¹⁰² Sections 1009.50(2)(c), 1009.51(2)(c), and 1009.52(2)(c), F.S.

¹⁰³ Florida Department of Education, Office of Student Financial Assistance, *Florida Student Assistance Grant Allocations* (Aug. 20, 2019) available at <https://www.floridastudentfinancialaidsg.org/PDF/PSI/1920-09.pdf>; For 2019-2020, the maximum Federal Pell Grant eligible EFC is 5576. *see* National Association of Student Financial Aid Administrators, *Federal Pell Grant Payment and Disbursement Schedules*, Jan. 23, 2019, <https://www.nasfaa.org/news-item/17276/2019-2020-Federal-Pell-Grant-Payment-and-Disbursement-Schedules> (last visited Feb. 26, 2020).

¹⁰⁴ Florida Department of Education, Office of Student Financial Assistance, *End-of-Year Report 2018-2019 Florida Student Assistance Grant Public*, at 1, available at https://www.floridastudentfinancialaidsg.org/PDF/PSI/FSAGPU_2018_2019.pdf.

¹⁰⁵ *Id.*

¹⁰⁶ *Id.* The average award amount includes initial and renewal students disbursed.

¹⁰⁷ Florida Department of Education, Office of Student Financial Assistance, *End-of-Year Report 2018-19 Florida Student Assistance Grant Career Education*, at 1, available at https://www.floridastudentfinancialaidsg.org/PDF/PSI/FSAGCE_2018_2019.pdf.

¹⁰⁸ *Id.*

¹⁰⁹ *Id.* The average award amount includes initial and renewal students disbursed.

¹¹⁰ Florida Department of Education, Office of Student Financial Assistance, *End-of-Year Report 2018-19 Florida Student Assistance Grant Private*, at 1, available at https://www.floridastudentfinancialaidsg.org/PDF/PSI/FSAGPR_2018_2019.pdf.

¹¹¹ *Id.*

¹¹² *Id.* The average award amount includes initial and renewal students disbursed.

¹¹³ Florida Department of Education, Office of Student Financial Assistance, *End-of-Year Report 2018-19 Florida Student Assistance Grant Postsecondary*, at 1, available at https://www.floridastudentfinancialaidsg.org/PDF/PSI/FSAGPO_2018_2019.pdf.

¹¹⁴ *Id.*

¹¹⁵ *Id.* The average award amount includes initial and renewal students disbursed.

To provide consistency in the provisions that apply to each of the four student financial aid programs included in the FSAG Program, the bill aligns specific requirements across all four student financial aid programs. The bill provides for the following:

- Establishes that the maximum award for each FSAG program is the amount specified in the GAA.
- Allows a student who received a FSAG program award in the fall or spring term, to receive an award during the summer term if funds are available.
- Provides flexibility to an institution to provide awards to students with the greatest unmet need by removing the requirement that institutions must prioritize the distribution of grant funds to students with the lowest family resources.
- For the FSAG Public, FSAG Private, and FSAG Postsecondary awards, the bill removes the DOE development of a maximum EFC in determining eligibility to receive a grant award by prohibiting an institution from granting an award to a student who's EFC exceeds one and one-half times the maximum Pell Grant-eligible family contribution.
- Requires that an institution participating in an FSAG program must report to the DOE all eligible students for the program, regardless of actual award disbursements.¹¹⁶
- Revises the formula the state board develops for distribution of awards to institutions to include the number of eligible applicants, both part-time and full-time, who did not receive awards.
- Standardizes the required institutional reporting for each award, requiring institutions to certify to the DOE within 30 days after the end of regular registration each term, the amount of funds disbursed. The institution must remit to the department any undisbursed advances within 60 days after the end of regular registration each spring term. An exception to the remittance may be granted if the institution documents to the DOE how it will disburse awards to students for the subsequent summer term. Institutions that use funds for summer terms must certify to the DOE the amount of funds disbursed to each student and remit to the DOE any undisbursed advances within 30 day after the end of the summer term.
- Requires institutions receiving funds through the FSAG Public and FSAG Career Education programs to prepare the same biennial report currently required of the FSAG Private and FSAG Postsecondary programs. The report requirements specify that:
 - Each institution that receives moneys through the FSAG program is required to prepare a biennial report that includes a financial audit, conducted by the Auditor General, of the institution's administration of the program and a complete accounting of moneys allocated to the institution for the program. The report must be submitted to the DOE by March 1 every other year.
 - The DOE may conduct its own annual or biennial audit in lieu of the required biennial report and financial audit report.
 - The DOE may suspend or revoke an institution's eligibility in the aid program if the institution is found out of compliance with the provisions of program participation.
 - If an institution is overpaid for awards, a refund must be remitted to the DOE within 60 days after notification.

Benacquisto Scholarship Program

Present Situation

The Benacquisto Scholarship Program (scholarship) was created in 2014¹¹⁷ to reward a Florida high school graduate who achieves recognition as a National Merit Scholar (NMS)¹¹⁸ or National

¹¹⁶ Reporting all eligible students, rather than only those who received an award disbursement, is consistent with requirements in rule 6A-20.031(7), 6A-20.032(7), and 6A-20.033(7), F.A.C. which requires an institution to report each awarded student and each eligible but not awarded student.

¹¹⁷ Section 1009.893(2), F.S.

¹¹⁸ The National Merit Scholar program is a scholarship operated by the National Merit Scholarship Corporation. To enter into the program, high school students must take the Preliminary SAT/National Merit Scholarship Qualifying Test, which serves as the

Achievement Scholar (NAS)¹¹⁹ and enrolls in a baccalaureate degree program at an eligible Florida public or independent postsecondary institution.¹²⁰

In addition to achieving the recognition as a NMS¹²¹ or NAS, in order to be eligible for an award under the scholarship program, a student must meet the following requirements:

- be a resident of the state of Florida;
- earn a standard high school diploma or its equivalent, unless:
 - the student completed a home education program;¹²² or
 - the student earns a high school diploma from a non-Florida school while living with a parent who is on military or public assignment out of state;
- be accepted and enroll in a Florida public or independent postsecondary institution that is regionally accredited; and
- be enrolled full-time¹²³ in a baccalaureate¹²⁴ degree program during the fall academic term following high school graduation.¹²⁵

In 2018, eligibility for the program was expanded to allow out-of-state students to qualify for a scholarship.¹²⁶ To be eligible, an out-of-state student must physically reside in Florida on or near the institution's campus where the student is enrolled.¹²⁷

Scholarship recipients attending a public postsecondary institution, who qualify as a Florida resident, receive an award equal to the institutional costs of attendance minus the sum of the student's Florida Bright Futures Scholarship and NMS or NAS award.¹²⁸ Scholarship recipients who qualify as non-residents and are attending a Florida public postsecondary institution, receive a scholarship award equal to the institutional cost of attendance for a resident of the state, minus the student's NMS.¹²⁹ Non-resident scholarship recipients are exempt from paying out-of-state fees.¹³⁰

Scholarship recipients who attend an independent postsecondary institution receive an award equal to the highest cost of attendance for a resident of this state enrolled at a Florida public university, as reported by the BOG, minus the sum of the student's Florida Bright Futures Scholarship and NMS or NAS.¹³¹

A scholarship recipient is eligible for a renewal award, if the student earns all of the credits for which the student was enrolled and maintains a 3.0 or higher grade point average.¹³² A student may receive an award for a maximum of 100 percent of the number of credit hours required to complete a

qualifying test for entry into the competition for scholarships. *National Merit Scholarship Program*, <https://www.nationalmerit.org/s/1758/interior.aspx?sid=1758&gid=2&pgid=424> (last visited Feb. 26, 2020).

¹¹⁹ The National Achievement Scholar program was operated by the National Merit Scholarship Corporation from 1965-2015. Program funds are now being redirected to be used for awards for college graduates through the United Negro College Fund. *National Achievement Scholarship Program*, <https://www.nationalmerit.org/s/1758/interior.aspx?sid=1758&gid=2&pgid=433> (last visited Feb. 26, 2020).

¹²⁰ Section 26, ch. 2014-56, L.O.F. The program was previously named The Florida National Merit Scholar Incentive Program.

¹²¹ A National Merit Finalist becomes a Scholar by receiving: a National Merit \$2,500 Scholarship, a Corporate-sponsored Merit Scholarship, or a College-sponsored Merit Scholarship. "Special" Corporate Scholarships and "Presidential" awards do not qualify a student for the Benacquisto Scholarship. Florida Department of Education, Office of Student Financial Assistance, *Benacquisto Scholarship Program Fact Sheet*, at 1, available at <https://www.floridastudentfinancialaidsg.org/PDF/factsheets/FIS.pdf>.

¹²² Section 1002.41, F.S.

¹²³ Rule 6A-20.0281(1)(d), F.A.C. Enrolled for a minimum of 12 credit hours per term or the equivalent in quarter hours.

¹²⁴ Rule 6A-20.0281(1)(b), F.A.C. Eligibility requirements for the Benacquisto Scholarship provide that a student may not have previously received a recognized baccalaureate degree.

¹²⁵ Section 1009.893(4)(a), F.S.

¹²⁶ Section 22, ch. 2018-4, L.O.F.

¹²⁷ Section 1009.893(4)(b)1., F.S.

¹²⁸ Section 1009.893(5)(a)1., F.S.

¹²⁹ Section 1009.893(5)(a)2., F.S.

¹³⁰ *Id.*

¹³¹ Section 1009.893(5)(b), F.S.

¹³² Section 1009.893(6)(a), F.S.

STORAGE NAME: h0613e.EDC

DATE: 2/28/2020

baccalaureate degree program, or until completion of a baccalaureate degree program, whichever comes first.¹³³

In 2018-2019, 1,153 students were awarded a Benacquisto Scholarship.¹³⁴ For the 2019-2020 FY, \$21,372,911¹³⁵ was appropriated to fund 1,416 scholarship recipients.¹³⁶

Effect of Proposed Changes

The bill requires a student to be enrolled full-time to be eligible for a Benacquisto Scholarship renewal award, however, the bill provides that an eligible student with fewer than 12 credit hours remaining to complete their baccalaureate degree may receive funding for one term in order to complete the degree.

The bill specifies that a student's renewal status is not affected by subsequent changes in the residency status of the student or the residency status of the student's family.

The bill allows a student to receive an award for up to 5 years following high school graduation for no more than 10 semesters.

The bill allows a student who receives a Benacquisto Scholarship award and fails to meet the renewal requirements due to a verifiable illness or other documented emergency may be granted an exception.¹³⁷

The bill removes reference to the National Achievement Scholar program as it is no longer operated by the National Merit Scholarship Corporation.¹³⁸

Public Postsecondary End-of-Year Fund Balances

Present Situation

Florida's state universities¹³⁹ and FCS institutions¹⁴⁰ are authorized to carry forward unexpended amounts in operating funds for subsequent fiscal years. Each state university and FCS institution must maintain a minimum carry forward balance.

Smaller FCS Institutions

Each FCS institution with a final FTE less than 15,000 for the prior year must maintain a minimum carry forward balance of at least 5 percent of its state operating budget.¹⁴¹ If a FCS institution fails to maintain a 5 percent balance, the president must provide written notification to the state board.¹⁴²

¹³³ Section 1009.893(6)(b), F.S.

¹³⁴ Florida Department of Education, Office of Student Financial Assistance, *End-of-Year Report 2018-19 Benacquisto Scholarship* (Sep. 3, 2019), available at https://www.floridastudentfinancialaidsg.org/PDF/PSI/FIS_2018_2019.pdf.

¹³⁵ Specific Appropriation 68, s.2, ch. 2019-115, L.O.F.

¹³⁶ Office of Economic & Demographic Research, *Education Estimating Conference on Student Financial Aid Executive Summary* (March 15, 2019), at 1, available at <http://edr.state.fl.us/Content/conferences/financialaid/archives/190315financialaid.pdf>.

¹³⁷ Section 1009.40(1)(b)4., F.S. A student who fails to meet requirements due to a verifiable illness or other emergencies may be granted an exception. The student must make a written appeal to the institution which includes a description and verification of the circumstances. The institution must recommend exceptions with necessary documentation to the DOE and the DOE may accept or deny such recommendations for exceptions from the institution.

¹³⁸ The National Achievement Scholar program was operated by the National Merit Scholarship Corporation from 1965-2015. Program funds are now being redirected to be used for awards for college graduates through the United Negro College Fund. *National Achievement Scholarship Program*, <https://www.nationalmerit.org/s/1758/interior.aspx?sid=1758&gid=2&pgid=433> (last visited Feb. 26, 2020).

¹³⁹ Section 1001.45, F.S.

¹⁴⁰ Section 1013.841(1), F.S.

¹⁴¹ Section 1013.841(2)(a), F.S.

¹⁴² *Id.*

Each FCS institution with a final FTE less than 15,000 for the prior year that retains a fund carry forward balance in excess of 5 percent must submit a spending plan for its excess carry forward balance.¹⁴³ The spending plan must include all excess carry forward funds from state operating funds.¹⁴⁴ The spending plan must be submitted to the institution's board of trustees for approval by September 1, 2020, and each September 1 thereafter.¹⁴⁵ The state board must review and publish each FCS institution's carry forward spending plan by October 1, 2020, and each October 1 thereafter.¹⁴⁶

Required Minimum Balances

Each FCS institution with a final FTE of 15,000 or greater for the prior year and state university must maintain a minimum carry forward balance of at least 7 percent of its state operating budget.¹⁴⁷ If a FCS institution or university fails to maintain a 7 percent balance in state operating funds, it must submit a plan to the state board or BOG to attain the 7 percent balance within the next fiscal year.¹⁴⁸

Institutions with Balances in Excess of Minimums

Each state university that retains a state operating fund carry forward balance in excess of 7 percent, must submit a spending plan for its excess carry forward balance.¹⁴⁹ The carry forward spending plan must include the estimated cost per planned expenditures and a timeline for completion of the expenditure.¹⁵⁰ The plan may include specified authorized expenditures.¹⁵¹ The carry forward spending plan must be submitted to the university's board of trustees for review, approval, or if necessary, amendment by September 1, 2020, and each September 1 thereafter.¹⁵² The BOG must review, approve, and amend, if necessary, each university's spending plan by October 1, 2020, and each October 1 thereafter.¹⁵³

Each FCS institution with a final FTE of 15,000 or greater for the prior year that retains a fund carry forward balance in excess of 7 percent must submit a spending plan for its excess carry forward balance.¹⁵⁴ The spending plan must include all excess carry forward funds from state operating funds.¹⁵⁵ The spending plan must be submitted to the institution's board of trustees for approval by September 1, 2020, and each September 1 thereafter.¹⁵⁶ The state board must review and publish each FCS institution's carry forward spending plan by October 1, 2020, and each October 1 thereafter.¹⁵⁷

Effect of Proposed Changes

The bill provides additional time for the submission and approval dates for state universities and FCS institutions that must submit a spending plan for excess carry forward balances. The bill establishes the following new dates:

- For a state university, the spending plan must be submitted to the institution's board of trustees by September 30, 2020, and each September 30 thereafter. The BOG must review, approve

¹⁴³ Section 1013.841(2)(b), F.S.

¹⁴⁴ *Id.*

¹⁴⁵ *Id.*

¹⁴⁶ *Id.*

¹⁴⁷ Section 1011.45(1), F.S. and Section 1013.841(3)(a), F.S.

¹⁴⁸ Section 1011.45(1), F.S. and Section 1013.841(3)(a), F.S. The FCS spending plan may include authorized expenditures. *see* Section 1013.841(4)(a)-(f), F.S.

¹⁴⁹ Section 1011.45(2), F.S.

¹⁵⁰ Section 1011.45(3), F.S.

¹⁵¹ Section 1011.45(3)(a)-(f), F.S.

¹⁵² Section 1011.45(2), F.S.

¹⁵³ *Id.*

¹⁵⁴ Section 1013.841(3)(b), F.S.

¹⁵⁵ *Id.*

¹⁵⁶ *Id.*

¹⁵⁷ *Id.*

and amend, if necessary, each university's carry forward spending plan by November 15, 2020, and each November 15 thereafter.

- For a FCS institution, the spending plan must be submitted to the institution's board of trustees by September 30, 2020, and each September 30 thereafter. The state board must review and publish each FCS institution's carry forward spending plan by November 15, 2020, and each November 15 thereafter.

The bill allows the spending plan for a state university or FCS institution to include a commitment of funds to a contingency reserve for expenses incurred as a result of a state of emergency declared by Florida's Governor.

B. SECTION DIRECTORY:

Section 1. Amending section 1001.03, F.S.; requiring the State Board of Education to require Florida College System institutions to conduct an annual assessment related to intellectual freedom and viewpoint diversity at each institution; providing State Board of Education requirements relating to such assessment.

Section 2. Amending section 1001.706, F.S.; requiring the Board of Governors to require state universities to conduct an annual assessment related to intellectual freedom and viewpoint diversity at each university; providing Board of Governors requirements relating to such assessment; requiring selection of a president to be from a specified number of candidates; deleting a requirement that certain boards of trustees comply with specified provisions for the procurement of professional services.

Section 3. Amending section 1001.7065, F.S.; revising standards for the preeminent state research universities program; requiring such standards to be reported annually in a specified plan; repealing the programs of excellence designation within the State University System; creating the "state universities of distinction" designation within the State University System; requiring the Board of Governors to establish standards and measures for specific state university competencies; providing requirements for such standards and measures; authorizing the Board of Governors to annually submit such programs to the Legislature for funding by a specified date.

Section 4. Amending section 1001.92, F.S.; revising the performance-based metrics for state universities to include specific data beginning in a certain fiscal year; authorizing the Board of Governors to approve other metrics; prohibiting the adjustment of such metrics and benchmarks once specified data has been received.

Section 5. Amending section 1004.085, F.S.; requiring innovative pricing techniques and payment options to include an opt-out provision.

Section 6. Amending section 1004.346, F.S.; removing a limitation on the length of time a Phosphate Research and Activities Board member may serve after expiration of his or her term.

Section 7. Creating section 1004.6499, F.S.; creating the Florida Institute for Great Citizenship for a specified purpose; providing goals of the institute.

Section 8. Amending section 1009.50, F.S.; requiring that grants administered through the Florida Public Student Assistance Grant Program not exceed a certain amount; authorizing students who receive an award in the fall or spring term to receive an award in the summer term, subject to the availability of funds; prohibiting institutions from dispensing grants to students whose expected family contribution exceeds a certain amount; requiring institutions to certify the amount of funds disbursed within a specified timeframe; requiring institutions to remit any undisbursed advances within a specified timeframe; providing an exception; requiring institutions that receive moneys through the program to prepare and submit to the department by a specified date a biennial report that includes a financial audit conducted by the Auditor General; authorizing the department to conduct its own annual or biennial audit under certain circumstances; authorizing the department to suspend or revoke an institution's eligibility or request a refund of moneys overpaid to the institution under certain circumstances; providing a timeframe for such refunds.

Section 9. Amending section 1009.505, F.S.; requiring grants administered through the Florida Public Postsecondary Career Education Student Assistance Grant Program to not exceed a certain amount;

authorizing students who receive an award in the fall or spring term to receive an award in the summer term, subject to the availability of funds; requiring institutions to certify the amount of funds disbursed within a specified timeframe; requiring institutions to remit any undisbursed advances within a specified timeframe; providing an exception; requiring institutions that receive moneys through the program to prepare and submit to the department by a specified date a biennial report that includes a financial audit conducted by the Auditor General; authorizing the department to conduct its own annual or biennial audit under certain circumstances; authorizing the department to suspend or revoke an institution's eligibility or request a refund of moneys overpaid to the institution under certain circumstances; providing a timeframe for such refunds; authorizing funds appropriated for state student assistance grants to be deposited in a specified trust fund; requiring that any balance in the trust fund at the end of any fiscal year which has been allocated to the Florida Public Postsecondary Career Education Student Assistance Grant Program remain in the trust fund, subject to certain statutory exceptions.

Section 10. Amending section 1009.51, F.S.; requiring that grants administered through the Florida Private Student Assistance Grant Program not exceed a certain amount; authorizing students who receive an award in the fall or spring term to receive an award in the summer term, subject to the availability of funds; prohibiting institutions from dispensing grants to students whose expected family contribution exceeds a certain amount; requiring institutions to certify the amount of funds disbursed within a specified timeframe; requiring institutions to remit any undisbursed advances within a specified timeframe; providing an exception; revising a requirement for a biennial report.

Section 11. Amending section 1009.52, F.S.; requiring that grants administered through the Florida Postsecondary Student Assistance Grant Program not exceed a certain amount; authorizing students who receive an award in the fall or spring term to receive an award in the summer term, subject to the availability of funds; prohibiting institutions from dispensing grants to students whose expected family contribution exceeds a certain amount; requiring institutions to certify the amount of funds disbursed within a specified timeframe; requiring institutions to remit any undisbursed advances within a specified timeframe; providing an exception; revising a requirement for a biennial report.

Section 12. Amending section 1009.893, F.S.; revising and specifying eligibility for initial awards under the Benacquisto Scholarship Program; revising requirements for a student to receive a renewal award; providing a timeframe within which students may receive an award; providing an exception to renewal requirements.

Section 13. Amending section 1011.45, F.S.; revising the date by which a university must annually submit a spending plan to the university's board of trustees for approval; revising the date by which the Board of Governors must annually review and approve such plan; authorizing certain expenditures in a carry forward spending plan to include a commitment of funds to a contingency reserve for certain purposes.

Section 14. Amending section 1011.90, F.S.; providing requirements for a specified legislative budget request; requiring the Board of Governors to define specified classifications in regulation and provide such classifications in specified budget requests; prohibiting the growth rate of administrators at a state university from exceeding the growth rate of faculty at such university.

Section 15. Amending section 1013.45, F.S.; authorizing university boards of trustees to use other factors, including price, for the procurement of professional services; requiring certain procedures to conform to specified requirements; deleting a provision prohibiting boards from modifying specified rules.

Section 16. Amending section 1013.841, F.S.; revising the date by which a Florida College System institution must annually submit a spending plan to the institution's board of trustees for approval; revising the date by which the State Board of Education must annually review and publish such plans; authorizing certain expenditures in a carry forward spending plan to include a commitment of funds to a contingency reserve for certain purposes.

Section 17. Provides for an effective date of July 1, 2020, except as otherwise provided in the bill.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

The bill would result in a minimal increase in expenditures for FCS and SUS institutions to administer the annual intellectual freedom and viewpoint diversity assessment.

The BOG currently tracks student performance at an individual level so changes made to the metrics for including "2+2" students and the graduation rate of a Pell Grant student should only require adjustments to reporting queries.

Once the BOG defines in regulation faculty and administrator classifications, universities should be able to adjust their human resources classifications at minimal cost.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill may provide a cost savings to eligible students enrolled in postsecondary education by providing financial awards to support their education.

- The bill allows a student who received a Florida Student Assistance Grant (FSAG) program award in the fall or spring term, to receive an award during the summer term if funds are available. Additional students may qualify for an FSAG program award by revising the qualifications to provide that an institution may not grant an award to a student who's EFC exceeds one and one-half times the maximum Pell Grant-eligible family contribution.
- The bill allows a student with a Benacquisto Scholarship to qualify for a renewal award for one more term to complete their degree if they have fewer than 12 credit hours remaining to complete their baccalaureate degree and provides that a student with a verifiable illness or other documented emergency may be granted an exception to the renewal requirements.

D. FISCAL COMMENTS:

The bill replaces an unfunded program, State University Programs of Excellence, with State Universities of Distinction, providing that the BOG may annually submit identified programs, excluding those from preeminent state research universities, for funding. The Universities of Distinction designation is designed to support the nine non-preeminent institutions in the SUS. For FY 2020-21, the BOG requested \$67 M for Universities of Distinction. Currently, HB 5001, the House of Representatives proposed General Appropriations Act (GAA) for FY 2020-21 includes no funding for this issue; however, the Senate's proposed GAA, SB 2500, includes \$15 million.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

None.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill requires the BOG to define in regulation faculty and administrator classifications. The bill authorizes the BOG to adopt regulations for procuring construction management and program management.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On December 12, 2019, the Higher Education & Career Readiness Subcommittee adopted two amendments and reported the bill favorably as a committee substitute. The amendments:

- clarify that the BOG may annually submit State Universities of Distinction programs to the Legislature for funding, however, programs from preeminent state research universities are excluded; and
- provides for an effective date upon the act becoming law for the removal of a limitation that prohibits a Phosphate Research and Activities Board member from serving more than 180 days after the expiration of his or her term, until a successor is appointed.

On February 26, 2020, the Education Committee adopted two amendments and reported the bill favorably as a committee substitute. The committee substitute differs from the bill in the following ways:

- Requires the selection of a university president to be from at least three candidates.
- Authorizes the Board of Governors to adopt regulations for procuring construction management and program management.
- Allows all colleges and universities to establish a reserve fund for expenses incurred as a result of a declared state of emergency and revises the deadlines for colleges and universities to report end of year fund balances and submit spending plans.
- Restores the emerging preeminent designation.
- Revises the criteria for Preeminent Universities to include the concordant scores on the ACT.
- Creates the Institute for Great Citizenship at FSU to create opportunities for civic engagement and public policy discussions and increase civic literacy and requires the institute to establish affiliate institutes at the University of Florida and Florida International University.
- Revises state grant programs (the Florida Public Student Assistance Grant Program, the Florida Public Postsecondary Career Education Student Assistance Grant Program, Florida Private Student Assistance Grant Program, Florida Postsecondary Student Assistance Grant Program) by:
 - Establishing the maximum award for each program is the amount specified in the GAA.
 - Allowing the programs to award grants in the summer if funds are available.
 - Revises eligibility for awards to one and one half times Pell Grant-eligible family contributions. Currently, the department sets the level.
 - Standardizes institutional reporting for each award, including reporting on all eligible students and to prepare a biennial report that includes institutional administration of the program and a financial audit of program expenditures.
- Aligns requirements of the Benacquisto Scholarship Program to other state scholarship programs by:
 - Clarifying that a student may receive an award for less than 12 credits to complete the student's baccalaureate degree in one term; that a student's renewal status is not affected by subsequent changes in their parents residency; that an award may not exceed 10

- semesters; and that a student that fails to meet the renewal criteria due to a verifiable illness may be granted an exception.
- Repealing reference to the National Achievement Scholar program as it is no longer operated by the National Merit Scholarship Corporation.

The bill analysis is drafted to the committee substitute as adopted by the Education Committee.