

HOUSE OF REPRESENTATIVES STAFF FINAL BILL ANALYSIS

BILL #: CS/CS/HB 7051 PCB WTS 20-01 Intercollegiate Athlete Compensation and Rights
SPONSOR(S): Judiciary Committee and Education Committee and Workforce Development & Tourism
Subcommittee, LaMarca, McGhee and others
TIED BILLS: **IDEN./SIM. BILLS:**

FINAL HOUSE FLOOR ACTION: 98 Y's 14 N's **GOVERNOR'S ACTION:** Approved

SUMMARY ANALYSIS

CS/CS/HB 7051 passed the House on March 13, 2020, as CS/CS/SB 646.

The National Collegiate Athletic Association (NCAA) is a nonprofit organization whose voluntary membership includes colleges, universities, athletic conferences, and other affiliated organizations. The NCAA regulates intercollegiate athletic competitions in various sports across multiple divisions. NCAA rules prohibit student-athletes from being paid for the use of their names, images, and likenesses.

The bill authorizes intercollegiate athletes to earn compensation for the use of their name, image, or likeness (NIL). The bill seeks to preserve the integrity, quality, character, and amateur nature of intercollegiate athletics while maintaining a clear distinction between amateur and professional sports by:

- Providing that compensation for athletic performance or attendance at a particular institution remains prohibited.
- Specifying that compensation for the use of an athlete's NIL may only be provided by a third party unaffiliated with the athlete's postsecondary institution.
- Prohibiting a postsecondary educational institution, an entity whose purpose includes supporting or benefitting the institution or its athletic programs, or an officer, director, or employee of such institution or entity from compensating or causing an intercollegiate athlete to be compensated for his or her NIL.
- Specifying that compensation for the use of the athlete's NIL must be commensurate with the market value of the authorized use of the athlete's NIL.

The bill prohibits postsecondary educational institutions receiving state aid (Florida College System institutions, State University System institutions, and private colleges and universities) from:

- Preventing or unduly restricting an intercollegiate athlete from earning NIL compensation.
- Preventing or unduly restricting an intercollegiate athlete from obtaining professional representation for purposes of seeking NIL compensation.
- Revoking or reducing grant-in-aid awards for an intercollegiate athlete who earns compensation for his or her NIL.

The bill specifies that the terms of a contract for NIL compensation may not materially conflict with the terms of the intercollegiate athlete's team contract or extend beyond the time of the athlete's participation in an athletic program at a postsecondary educational institution.

The bill allows an athlete agent or attorney to represent an intercollegiate athlete in securing compensation for use of her or his name, image, or likeness, regardless of athletic conference or collegiate athletic association rules, bylaws, regulations, and policies to the contrary.

In addition, the bill requires each postsecondary educational institution receiving state aid to conduct a financial and life skills workshop at the beginning of the intercollegiate athlete's first and third academic years.

The bill was approved by the Governor on June 12, 2020, ch. 2020-28, L.O.F., and will become effective on July 1, 2021.

I. SUBSTANTIVE INFORMATION

A. EFFECT OF CHANGES:

Background

National Collegiate Athletic Association

The National Collegiate Athletic Association (NCAA) is a nonprofit organization whose voluntary membership includes colleges, universities, athletic conferences, and other affiliated organizations. The NCAA regulates intercollegiate athletic competitions in various sports across three divisions (Division I, Division II, and Division III). As the governing body for the majority of intercollegiate athletic programs, the NCAA provides that its basic purpose is to “maintain intercollegiate athletics as an integral part of the educational program and the athlete as an integral part of the student body and, by so doing, retain a clear line of demarcation between intercollegiate athletics and professional sports.”¹

The NCAA issues and enforces rules governing athletic competitions among its member schools. The rules are developed by a member-led governance system in which members introduce and vote on proposed rules. The rules for student-athletes vary by division. In general, the NCAA's amateurism rules prohibit student-athletes from being paid for their athletic abilities, including being paid for commercial endorsements if the reason for being chosen for the commercial endorsement is because of the student's athletic ability. This prohibition includes compensation for the use of a student-athlete's name, image, and likeness in live games, telecast, videogames, and other footage.

Student-athletes are allowed to receive scholarships, or "grants-in-aid," which may cover tuition and fees, room and board, required course-related books, food, and cash stipends to help defray the actual cost of attending school. However, NCAA rules prohibit a student's grant-in-aid from exceeding the cost of attendance at their school.²

The NCAA, along with member colleges and universities, award nearly \$3.5 billion in athletic scholarships every year to more than 180,000 student-athletes. According to the NCAA, they also provide almost \$100 million each year to support student-athletes' academic pursuits and assist them with the basic needs of college life, such as a computer, clothing or emergency travel expenses.³

Florida Intercollegiate Athletic Programs

In Florida, 13 schools participate in NCAA Division I athletics, of which seven compete in the Football Bowl Subdivision, four compete in the Football Championship Subdivision, and two do not field football teams. There are 13 NCAA Division II athletic programs located in the state, and no NCAA Division III athletic programs. Additionally, Florida is home to 25 institutions participating in the National Junior College Athletic Association (NJCAA), 10 institutions participating in the National Association of Intercollegiate Athletics (NAIA), and three institutions participating in the National Christian College Athletic Association (NCCAA).

¹ NCAA Bylaw 1.3.1., <https://web3.ncaa.org/lscdbi/reports/getReport/90008> (last visited Feb. 12, 2020).

² NCAA Bylaw 2.13., *Id.*, (last visited Feb. 12, 2020).

³ NCAA, *Finances*, <https://www.ncaa.org/about/resources/finances> (last visited Feb. 12, 2020).

NCAA Division I Intercollegiate Athletic Programs⁴

Institution Name	Classification	Total Undergraduates	Total Expenses	Total Revenue
Florida State University	FBS	29,187	\$ 167,054,375.00	\$ 177,512,950.00
University of Florida	FBS	30,887	\$ 157,240,476.00	\$ 157,240,476.00
University of Miami	FBS	10,134	\$ 94,723,980.00	\$ 94,723,980.00
University of Central Florida	FBS	39,685	\$ 60,069,492.00	\$ 60,069,492.00
University of South Florida	FBS	24,342	\$ 51,710,233.00	\$ 51,710,233.00
Florida International University	FBS	26,210	\$ 31,172,655.00	\$ 38,240,735.00
Florida Atlantic University	FBS	15,907	\$ 27,662,831.00	\$ 27,662,831.00
Stetson University	FCS	2,998	\$ 19,391,731.00	\$ 19,391,731.00
Jacksonville University	FCS	2,174	\$ 17,180,946.00	\$ 17,180,946.00
Florida Gulf Coast University	(no football)	10,821	\$ 15,037,882.00	\$ 15,037,882.00
Bethune-Cookman University	FCS	3,751	\$ 14,397,984.00	\$ 14,397,984.00
University of North Florida	(no football)	10,147	\$ 11,835,623.00	\$ 12,546,853.00
FAMU	FCS	6,852	\$ 9,922,955.00	\$ 9,922,955.00

Florida Postsecondary Education System

There are various forms of financial assistance available to students in Florida’s postsecondary institutions.⁵ These include:⁶

- Gift Aid: A type of financial assistance that does not have to be paid back.
- Grant: A type of student financial assistance, usually based on financial need, designed to assist with educational costs and which has no repayment conditions.
- Loan: A type of student financial assistance that must be repaid.
- Scholarship: A type of student financial assistance based on specific criteria which does not have to be repaid.

Florida Statutes identify a number of publicly funded academic, need, and workforce based scholarships.⁷ However, athletic scholarships are not provided for in Florida Statutes. Individual schools award athletic scholarships and grants-in-aid to student athletes.⁸ This financial assistance may not exceed the cost of attendance.⁹ “Cost of attendance” is defined as the average cost for a student to attend a postsecondary institution for one academic year, which includes the cost of tuition and fees, books and supplies, room and board, transportation, and personal expenses.¹⁰ In Florida’s State University System, the average cost of attendance per semester in the 2019-20 school year was \$11,232.¹¹

⁴ See generally, U.S. Department of Education, *Equity in Athletics Data Analysis*, <https://ope.ed.gov/athletics/#/customdata/search> (last visited Feb. 12, 2020).

⁵ Office of Student Financial Assistance, *Financial Aid Terms and Definitions*, <https://www.floridastudentfinancialaidsg.org/pdf/TermsAndDefinitions.pdf> (last visited Feb. 12, 2020). “Post-secondary institution” is defined as an institution providing educational training opportunities beyond the high school level and awarding degrees, diplomas, or certificates.

⁶ *Id.*

⁷ See ss. 1009.40–1009.894, F.S.

⁸ NCAA, *NCAA Recruiting Facts*, <http://www.ncaa.org/sites/default/files/Recruiting%20Fact%20Sheet%20WEB.pdf>. (last visited Feb. 12, 2020).

⁹ NCAA Bylaw 15.01.6.1., <https://web3.ncaa.org/lstdbi/reports/getReport/90008> (last visited Feb. 12, 2020).

¹⁰ Office of Student Financial Assistance, *supra* at 5.

¹¹ State University System of Florida, *2019-2020 Cost of Attendance*, <https://www.flbog.edu/wp-content/uploads/Cost-Attendance-2019-20-FINAL.pdf>. (last visited Feb. 12, 2020).

State University System of Florida							
Fall/Spring Cost of Attendance On-Campus for Full-Time Undergraduate Florida Residents 2019-20							
University	Tuition & Fees	Books & Supplies	Room & Board	Transportation	Other Expenses	Total	
FAMU	\$4,554	\$1,138	\$10,986	\$1,356	\$5,398	\$23,432	
FAU	5,432	1,248	11,950	2,172	5,210	26,012	
FGCU	6,118	1,200	9,672	1,700	1,700	20,390	
FIU	6,558	1,350	11,136	2,202	2,612	23,858	
FLPoly	4,940	1,200	11,471	2,000	2,000	21,611	
FSU	5,666	1,000	10,780	1,180	3,830	22,456	
NCF	6,916	1,200	9,529	1,100	2,170	20,915	
UCF	5,954	1,200	10,010	1,866	3,104	22,134	
UF	6,380	850	10,220	1,110	2,650	21,210	
UNF	6,590	1,200	9,720	2,823	1,247	21,580	
USF St. Petersburg	5,821	1,100	11,836	1,600	2,500	22,857	
USF Tampa	6,410	1,100	11,836	1,600	2,500	23,446	
UWF	6,350	1,600	10,062	1,800	2,300	22,122	
Average Cost per Semester:	\$2,988	\$592	\$5,354	\$866	\$1,432	11,232	

Source: Annual Survey of SUS Institutions

Notes: Costs that make up the "Other Expense" category can include but are not limited to the following: clothing maintenance/laundry, computer/cell phone, student health insurance, and other personal costs.

USF-Sarasota Manatee is not included in this table because this institution does not have residential students.

NCAA Report on 2018 Division I Revenues and Expenses¹²

In 2018, over 1,100 NCAA schools spent more than \$18 billion on athletics while generating only \$10.3 billion in revenues. Of the total expenditures in 2018, \$3.5 billion went toward financial aid for student-athletes and \$3.4 billion was spent on coaches' compensation. In total, only 29 athletic departments had revenues that exceeded expenditures, all of them Power 5 schools¹³, with an average surplus of \$9.3 million. In 2018, Power 5 schools accounted for 73% of all NCAA revenues and 43% of total spending. As a whole, Division I schools accounted for 97% of all NCAA revenues and 83% of spending.

In 2018, median athletic expenses exceeded revenues by \$2.6 million at Power 5 schools, approximately \$22 million at non-Power 5 Division I schools, and \$13.3 million at Division I schools without football.¹⁴ Expenses exceeded revenues at every FCS institution as well.¹⁵ Schools subsidize athletic deficits with student activity fees, direct support from the university, and other means.

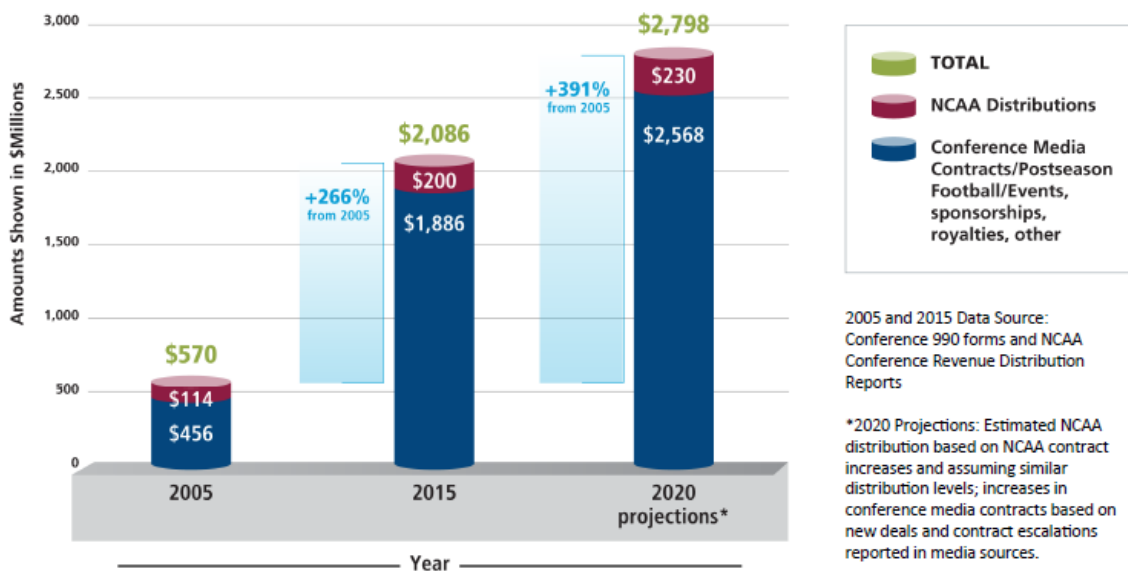
¹² NCAA, *Finances of Intercollegiate Athletics*, <http://www.ncaa.org/about/resources/research/finances-intercollegiate-athletics> (last visited Feb. 12, 2020).

¹³ In 2014, the NCAA granted certain autonomy to five athletic conferences and their 65 member institutions, known as the "autonomy" or "Power 5" conferences. NCAA Bylaw 5.3.2.1. The "Power 5" or "autonomy" conferences are comprised by the Atlantic Coast Conference, Big Ten Conference, Big 12 Conference, Pac-12 Conference and Southeastern Conference. Power 5 schools compete in the Football Bowl Subdivision (FBS) and they generate the most revenue (from ticket sales, broadcast rights, NCAA and conference distributions, etc.) in college athletics.

¹⁴ NCAA, *Finances of Intercollegiate Athletics*, <http://www.ncaa.org/about/resources/research/finances-intercollegiate-athletics> (last visited Feb. 12, 2020).

¹⁵ *Id.*

Revenues for Autonomous 5 Conferences (ACC, Big 10, Big 12, PAC-12, SEC)



Source: Knight Commission on Intercollegiate Athletics¹⁶

Amateurism

Notwithstanding the substantial revenues involved in intercollegiate athletics today, amateurism remains central to the NCAA model. The NCAA Constitution states:

The Principle of Amateurism. Student-athletes shall be amateurs in an intercollegiate sport, and their participation should be motivated primarily by education and by the physical, mental, and social benefits to be derived. Student participation in intercollegiate athletics is an avocation, and student-athletes should be protected from exploitation by professional and commercial enterprises.¹⁷

The NCAA Constitution further specifies that, relating to “amateur status,” an individual loses amateur status and is not eligible for intercollegiate competition in a particular sport if the individual:

- (a) Uses his or her athletics skill (directly or indirectly) for pay in any form in that sport;
 - (b) Accepts a promise of pay even if such pay is to be received following completion of intercollegiate athletics participation;
 - (c) Signs a contract or commitment of any kind to play professional athletics, regardless of its legal enforceability or any consideration received, except as permitted in Bylaw 12.2.5.1;
 - (d) Receives, directly or indirectly, a salary, reimbursement of expenses or any other form of financial assistance from a professional sports organization based on athletics skill or participation, except as permitted by NCAA rules and regulations;
 - (e) Competes on any professional athletics team per Bylaw 12.02.12, even if no pay or remuneration for expenses was received, except as permitted in Bylaw 12.2.3.2.1;
 - (f) After initial full-time collegiate enrollment, enters into a professional draft (see Bylaw 12.2.4);
- or

¹⁶ Knight Commission on Intercollegiate Athletics, *Finances of College Sports*, <https://www.knightcommission.org/wp-content/uploads/2016/10/2015-conferencerevenues.pdf> (last visited Feb. 12, 2020).

¹⁷ NCAA Bylaw 2.9.

(g) Enters into an agreement with an agent.¹⁸

Notably, the NCAA lacks a clear or consistent definition for the term “amateurism.” Courts have observed that the NCAA’s definition is “malleable, changing frequently over time in significant and contradictory ways” and have even gone so far as to say that amateurism is not “a core principle of the NCAA.”¹⁹ Examples of permissible income under NCAA rules include:

- NCAA rules allow two-sport athletes to be paid professionals in one sport while competing in a different college sport, such as Kyle Parker’s \$1.4 million baseball signing bonus while serving as Clemson’s quarterback in 2010.
- University of Texas swimmer Joseph Schooling received a \$740,000 bonus from Singapore for winning a gold medal at the 2016 Olympics.
- Tennis players can receive up to \$10,000 per year in prize money (and additional cash on a per-event basis) before or during college.
- College football players can receive bowl gifts up to \$550 in value, which can involve players selecting high-tech electronics from a gift suite or receiving a Visa gift card.
- Schools have student-assistance funds to help athletes financially, including insurance policies for elite athletes who want to protect their professional futures.²⁰
- Student-athletes are permitted to accept Pell grants above and beyond their cost of attendance.²¹

However, a University of Central Florida football kicker was recently ruled ineligible by the NCAA because of the income that he receives from his monetized YouTube channel.²²

Name, Image, and Likeness

Individuals have a property right in their name, image, and likeness.²³ However, the NCAA prohibits student-athletes from being paid for the use of their names, images, and likenesses.²⁴ Many student-athletes generate significant value in their name, image, and likeness and could receive significant compensation for them in an open market.²⁵ In recent years, the NCAA’s policy of prohibiting student-athletes from receiving compensation for the use of their names, images, and likenesses has attracted legal challenges, which alleged that the NCAA’s prohibition is an unlawful restraint of trade and violates antitrust laws.

In general, federal and state antitrust laws are intended to promote and foster competition in the marketplace and prevent anticompetitive mergers and business practices. The NCAA and its member institutions have traditionally been viewed by the courts as different from professional leagues, and for this reason have been allowed to implement certain restrictions on competition that many argue are necessary for intercollegiate athletics to exist.²⁶

¹⁸ NCAA Bylaw 12.1.2., <https://web3.ncaa.org/lstdbi/reports/getReport/90008> (last visited Feb. 12, 2020).

¹⁹ *O’Bannon v. National Collegiate Athletic Ass’n*, 802 F.3d 1049, 1058-9 (9th Cir. 2015).

²⁰ Jon Solomon, *The History Behind the Debate Over Paying NCAA Athletes* (April 23, 2018), <https://www.aspeninstitute.org/blog-posts/history-behind-debate-paying-ncaa-athletes> (last visited Feb. 12, 2020).

²¹ *O’Bannon*, 802 F.3d at 1059.

²² Katherine Mannion, *NCAA Amateurism Rules Promote Integrity at a Price*, JURIS Magazine (Oct 21, 2017), <http://sites.law.duq.edu/juris/2017/10/21/ncaa-amateurism-rules-promote-integrity-at-a-price> (last visited Feb. 12, 2020).

²³ Gabe Feldman, *The NCAA and “Non-Game Related” Student-Athlete Name, Image and Likeness Restrictions*, Knight Commission on Intercollegiate Athletics (May 2016) at 3, https://www.knightcommission.org/wpcontent/uploads/2008/10/feldman_nil_white_paper_may_2016.pdf (last visited Feb. 12, 2020).

The “right of publicity” is intended to assure an individual the right to own, protect, and commercially exploit his or her name, likeness, or persona. This right is part of the common law right of privacy now codified in s. 540.08, F.S. See, Robert C. Sanchez, *Unauthorized Appropriation of an Individual’s Name or Likeness-Florida’s Appellate Courts and 540.0*, Florida Bar Journal Vol. 72, No. 7, at 57. (Jul./Aug. 1998).

²⁴ *O’Bannon*, 802 F.3d at 1052.

²⁵ Feldman, *supra* note 23 at 3.

²⁶ *Id.*

In *O'Bannon v. NCAA*, the U.S. Court of Appeals for the Ninth Circuit found that student-athletes may be injured as a result of the NCAA rules excluding athletes from the market for their names, images, and likenesses but concluded that the NCAA is only required to “permit its schools to provide up to the cost of attendance to their student athletes.”²⁷

Recent Developments

On September 11, 2019, the California Legislature passed SB 206, the “Fair Pay to Play Act”, the first law of its kind in the U.S. allowing college student-athletes to benefit financially from their name, image and likeness. This California law has an effective date of January 1, 2023.

On the same day, the NCAA Board of Governors responded, in part: “We urge the state of California to reconsider this harmful and, we believe, unconstitutional bill and hope the state will be a constructive partner in our efforts to develop a fair name, image and likeness approach for all 50 states.”²⁸ When SB 206 was signed into law a few weeks later, the NCAA released a statement which acknowledged the need for changes in its approach to the name, image, and likeness rights of its student-athletes.²⁹

On October 29, 2019, the NCAA’s top governing board voted unanimously to permit students participating in athletics the opportunity to benefit from the use of their name, image and likeness in a manner consistent with the collegiate model.³⁰ Specifically, the board stated that modernization should occur within the following principles and guidelines:

- Assure student-athletes are treated similarly to non-athlete students unless a compelling reason exists to differentiate.
- Maintain the priorities of education and the collegiate experience to provide opportunities for student-athlete success.
- Ensure rules are transparent, focused and enforceable and facilitate fair and balanced competition.
- Make clear the distinction between collegiate and professional opportunities.
- Make clear that compensation for athletic performance or participation is impermissible.
- Reaffirm that student-athletes are students first and not employees of the university.
- Enhance principles of diversity, inclusion, and gender equity.
- Protect the recruiting environment and prohibit inducements to select, remain at, or transfer to a specific institution.³¹

Athlete Agents

The licensing and regulation of athlete agents in Florida is a state government function administered by the Department of Business and Professional Regulation (DBPR). DBPR processes licenses and responds to consumer complaints and inquiries in addition to monitoring activities and compliance within the athlete agent industry.

An “athlete agent” is a person who:

- Directly or indirectly, recruits or solicits a student athlete to enter into an agent contract, or
- For any type of financial gain, procures, offers, promises, or attempts to obtain employment or promotional fees or benefits for a student athlete with a professional sports team or as a professional athlete, or

²⁷ *O'Bannon*, 802 F.3d at 1079.

²⁸ NCAA, *NCAA responds to California Senate Bill 206* (Sept. 11, 2019) <http://www.ncaa.org/about/resources/media-center/news/ncaa-responds-california-senate-bill-206> (last visited Feb. 12, 2020).

²⁹ NCAA, *NCAA statement on Gov. Newsom signing SB 206* (Sept. 30, 2019) <http://www.ncaa.org/about/resources/media-center/news/ncaa-statement-gov-newsom-signing-sb-206> (last visited Feb. 12, 2020).

³⁰ NCAA, *Board of Governors starts process to enhance name, image and likeness opportunities* (Oct. 29, 2019) <http://www.ncaa.org/about/resources/media-center/news/board-governors-starts-process-enhance-name-image-and-likeness-opportunities> (last visited Feb. 12, 2020).

³¹ *Id.*

- With any promoter, markets or attempts to market the student athlete's athletic ability or athletic reputation.³²

The term "athlete agent" includes all employees and other persons acting on behalf of an athlete agent who participate in the activities included under this subsection. The term does not include a spouse, parent, sibling, grandparent, or guardian of the student athlete or an individual acting solely on behalf of a professional sports team or professional sports organization.

A "student athlete" is any student who:

- Resides in Florida and participates or formally intends to participate in a college or university's intercollegiate athletics; or
- Does not reside in Florida, but participates or formally intends to participate in a Florida college or university's intercollegiate athletics.³³

An "agent contract" is the contract or agreement in which a student athlete authorizes an athlete agent to represent the student in the marketing of the student's athletic ability or athletic reputation.³⁴ In order to be valid, such contract is specifically required to include any fees paid to the agent and indicate how such fee is calculated. The athlete agent is also required to follow certain procedures during the contracting process, such as alerting the athletic director of the educational institution of the existence of the agent contract. The contracts are generally voidable by the student athlete within 14 days of execution.³⁵

In order to be licensed as an athlete agent, an applicant must be at least 18 years of age, of good moral character, and have completed the application form with fingerprints for a background check. Applicants must remit to DBPR an initial application fee of \$250, an initial licensure fee of \$375, an unlicensed activity fee of \$5, and a biennial renewal fee of \$220.³⁶

Athlete agents must establish and maintain complete business and financial records. The athlete agent is required to "save each entry into a financial or business record for at least 5 years from the date of entry."³⁷ DBPR has the right to full inspection of such records and may exercise its subpoena powers to obtain the financial and business records of an athlete agent.

Athlete agents are subject to disciplinary action for violating practice requirements set forth in statute. Violations include:

- Commingling money or property of another person with the athlete agent's money or property;³⁸
- Committing mismanagement or misconduct which causes financial harm to a student athlete or college or university;³⁹ and
- Violating or aiding and abetting another person to violate the rules of the athletic conference or collegiate athletic association governing a student athlete or student athlete's college or university.⁴⁰

An unlicensed person is generally prohibited from acting as an athlete agent.⁴¹ Section 468.453(3), F.S., allows an unlicensed individual to act as an athlete agent if:

- A student athlete or person acting on the athlete's behalf initiates communication with the individual; and

³² S. 468.452(2), F.S.

³³ S. 468.452(5), F.S.

³⁴ S. 468.452(1), F.S.

³⁵ S. 468.454, F.S.

³⁶ R. 61-24.004, F.A.C.

³⁷ S. 468.4565, F.S.

³⁸ S. 468.456(1)(d), F.S.

³⁹ S. 468.456(1)(h), F.S.

⁴⁰ S. 468.456(1)(k), F.S.

⁴¹ S. 468.4561, F.S.

- Within seven days after an initial act as an athlete agent, the individual submits an application for licensure.

In Fiscal Year 2018-2019, there were 321 licensed athlete agents in Florida. DBPR received two complaints related to athlete agents, but did not take any disciplinary action.⁴²

Effect of the Bill

Compensation for Name, Image, or Likeness

The bill authorizes intercollegiate athletes⁴³ to earn compensation for the use of their name, image, or likeness (NIL). The bill seeks to preserve the integrity, quality, character, and amateur nature of intercollegiate athletics while maintaining a clear distinction between amateur intercollegiate athletics and professional sports by:

- Providing that compensation for athletic performance or attendance at a particular institution remains prohibited.
- Specifying that compensation for the use of an athlete's NIL may only be provided by a third party unaffiliated with the athlete's postsecondary institution.
- Prohibiting a postsecondary educational institution, an entity whose purpose includes supporting or benefitting the institution or its athletic programs, or an officer, director, or employee of such institution or entity from compensating or causing an intercollegiate athlete to be compensated for his or her NIL.
- Specifying that compensation for the use of the athlete's NIL must be commensurate with the market value of the authorized use of the athlete's NIL.

The bill prohibits postsecondary educational institutions receiving state aid, including Florida College System institutions, State University System institutions, and private colleges and universities, from:

- Preventing or unduly restricting an intercollegiate athlete from earning NIL compensation.
- Preventing or unduly restricting an intercollegiate athlete from obtaining professional representation for purposes of seeking NIL compensation.
 - For such professional representation, an intercollegiate athlete may retain an athlete agent licensed in Florida or an attorney licensed and in good standing with the Florida Bar.
- Revoking or reducing grant-in-aid awards for an intercollegiate athlete who earns compensation for his or her NIL.

The bill specifies that the terms of a contract for NIL compensation may not materially conflict with the terms of the intercollegiate athlete's team contract or extend beyond the time of the athlete's participation in an athletic program at a postsecondary educational institution. Athletes under 18 years of age must have any such contract reviewed by a court.

The bill allows an athlete agent or attorney to represent an intercollegiate athlete in securing compensation for use of her or his name, image, or likeness under s. 1006.74, F.S., regardless of athletic conference or collegiate athletic association rules, bylaws, regulations, and policies to the contrary.

Additionally, the bill requires each postsecondary educational institution receiving state aid to conduct a financial and life skills workshop at the beginning of the intercollegiate athlete's first and third academic years. The bill prohibits providers of financial products or services to market, advertise, refer, or solicit intercollegiate athletes during these workshops.

⁴² Florida Department of Business and Professional Regulation, *2018-2019 Annual Report*, pp.19, 90.

⁴³ The bill defines an "intercollegiate athlete" as a student who participates in an athletic program, including a former intercollegiate athlete who suffered an injury.

The bill directs the Board of Governors and the State Board of Education to adopt regulations and rules to implement the provisions of the bill.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.