

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: PCB HEWS 16-01 Postsecondary Access and Affordability

SPONSOR(S): Higher Education & Workforce Subcommittee

TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Higher Education & Workforce Subcommittee	11 Y, 0 N	Banner	Bishop

SUMMARY ANALYSIS

Promotes college affordability by:

- Requiring public postsecondary institutions to publicly notice any proposal to increase tuition or fees at least 28 days prior to consideration by the board of trustees.
- Eliminating the ability for state universities to seek approval from the Board of Governors (BOG) for an increase in the tuition differential fee.
- Clarifying that preeminent universities may increase the tuition differential by no more than 6 percent only if they meet specific performance benchmarks established by the BOG.
- Removing the requirement that seventy percent of revenues generated by the tuition differential fee be spent on undergraduate education.
- Removing the authority for the BOG to delegate the establishment of tuition for graduate and professional programs and out-of-state fees to the university boards of trustees.
- Requiring the SBE and the BOG to annually identify strategies and initiatives to promote college affordability (including the impact of tuition and fees, financial aid policies, and textbook costs) and submit an annual report to the Governor, Senate President, and Speaker of the House of Representatives.
- Enhancing the current textbook affordability law to provide students with sufficient time and information to seek out the lowest available prices by:
 - Authorizing state universities and Florida College System institutions to create innovative price structures for instructional materials by incorporating the cost of integrated digital materials into the cost of specific courses.
 - Requiring public postsecondary institutions to conduct cost benefit analyses and report annually to chancellors on implementation of textbook affordability policies;
 - Requiring chancellors to summarize institutional reports and submit a summary to SBE and BOG respectively; and
 - Requiring public postsecondary institution boards of trustees to report, by semester, the cost variance among sections and length of time textbooks and other materials are in use for all general education courses. This provision expires July 1, 2018.

The bill has an effective date of July 1, 2016.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Tuition Differential

Present Situation

The tuition differential fee was established in 2007 as a mechanism to generate revenue for state universities to improve the quality of direct undergraduate instruction and support services.¹ Revenues from this fee are also used to provide financial aid to undergraduate students exhibiting financial need.²

During the 2009 Legislative Session, Senate Bill 762³ prescribed more specific expenditure requirements related to the revenues generated by this fee. The law requires that seventy percent of the revenues be expended for purposes of undergraduate education, such as increasing course offerings, improving graduation rates, decreasing student-faculty ratios and use of adjunct professors, improving efficiency, and reducing the number of students enrolling in excess credit hours. The remaining thirty percent, or an equivalent amount from private sources, is to provide financial aid to undergraduate students exhibiting financial need. Current law prohibits these funds from supplanting the amount of need-based aid provided from financial aid fee revenues, direct appropriations for student financial assistance, or other private sources. If the entire amount of tuition and fees for resident students receiving Pell grants has been met, the remaining revenues dedicated to student financial aid may be used in the same manner as the seventy percent set aside for undergraduate education.⁴

State universities are prohibited from increasing the tuition differential fee unless the institution is designated as a preeminent state research university. The annual percentage increase is limited to six percent contingent upon meeting or exceeding performance standard targets established by the Board of Governors (BOG). A preeminent university may increase its tuition differential by up to two percent for meeting each of these specified performance targets:

- Increase in 6-year graduation rate for full-time, first-time-in-college students, as reported annually to the Integrated Postsecondary Education Data System;
- Increase in the total annual research expenditures; and
- Increase in the total patents awarded by the United State Patent and Trademark Office for the most recent years.⁵

Current law outlines twelve specific academic and research excellence standards for preeminent research programs. Institutions must meet at least eleven of them to be designated by the BOG as a preeminent state research university.⁶ The University of Florida and Florida State University are the only two state universities that have been designated as preeminent state research universities.

Effect of Proposed Changes

The bill authorizes state universities to continue to assess a tuition differential fee if the fee was approved prior to July 1, 2015. However, the bill removes the ability for universities to seek approval from the BOG for an increase in the tuition differential fee, effectively capping tuition differential fees at universities not designated as preeminent to the level in place as of July 1, 2015. The bill further clarifies that institutions with preeminent research university status may increase the tuition differential

¹ Chapter 2007-225, L.O.F.

² Section 1009.24(16), F.S.

³ Chapter 2009-98, L.O.F.

⁴ Section 1009.24(16)(a), F.S.

⁵ Section 1009.24(16)3., F.S.

⁶ Section 1001.7065, F.S.

fee by no more than 6 percent provided they meet the specified performance benchmarks established by the BOG.

The bill also removes the provision requiring state universities to expend seventy percent of tuition differential fee revenues on specific purposes related to undergraduate instruction; however the requirement to expend thirty percent on student financial aid remains in effect.

State University and Florida College System Institution Tuition and Fees

Present Situation

Current law authorizes the Board of Governors (BOG), or the board's designee, to establish tuition for graduate and professional programs and out-of-state fees for all programs.⁷ The BOG has adopted regulations related to the adoption of tuition and fees at state universities. The regulations authorize undergraduate tuition per credit hour to be charged as established in law and that each university board of trustees (UBOT) set out-of-state fees, graduate fees and myriad other associated student fees.⁸ All university actions pertaining to undergraduate student tuition and fees require BOG approval and do not become effective until such approval is received.⁹

Boards of Trustees Meetings

BOG regulation requires the board to authorize all fees assessed to students and that only tuition and fees outlined in the board regulations may be charged.¹⁰ The BOG's regulation development procedures for the university boards of trustees (UBOT) require that UBOTs give at least 30 days notice prior to any proposed adoption or repeal of a regulation. Notice of the proposed regulation, amendment or repeal must be published on a clearly marked area of the institution's website and include a summary of the proposed action, the full text of the proposed action, a reference to the authority for the regulation, the university official initiating the proposed action and a procedure for commenting on the proposed action. Following the adoption by the UBOT, the regulation must be provided to the BOG for adoption. All regulations pertaining to student tuition and fees require BOG approval and do not become effective until such approval is received.¹¹

BOG staff surveyed each university to obtain information regarding the meeting notice policies for their boards of trustees. The majority of the university boards of trustees post meeting notices and/or materials on the institution website at least 7 days prior to the meeting. One institution posts meeting notices and/or materials at least 10 days in advance and several others at least 14 days in advance of the meeting. One institution also posts meeting notices in the local newspaper. In addition, three institutions indicated that meeting dates are provided as far in advance as an entire academic year.¹²

The State Board of Education has adopted a rule related to student fees. The rule authorizes each FCS institution board of trustees to establish, publish, collect, and budget student fees, and establish dates for the payment of such fees.¹³ Department of Education (DOE) staff surveyed the Florida College System (FCS) institutions to obtain information regarding the meeting notice policies for their boards of trustees. The majority of FCS institutions post meeting notices and/or materials their websites 7 to 14 days in advance of the meeting. Many institutions also indicated that the president speaks with student groups (e.g., student government association) to discuss consideration of tuition

⁷ Section 1009.24(4)(b), F.S.

⁸ Board of Governors Regulation 7.001

⁹ Board of Governors, Regulation Development Procedure for University Boards of Trustees, *available at* <http://www.flbog.edu/aboutsus/ubt.php> (last viewed September 18, 2015).

¹⁰ Board of Governors Regulation 7.003

¹¹ Board of Governors, Regulation Development Procedure for University Boards of Trustees, *available at* <http://www.flbog.edu/aboutsus/ubt.php> (last viewed September 18, 2015).

¹² Email, Board of Governors, General Counsel (September 18, 2015)

¹³ Rule 6A-14.054, F.A.C.

changes. In addition, several institutions indicated that meeting dates are provided as far in advance as an entire academic year.¹⁴

Effect of Proposed Changes

The bill removes the authority for the BOG to delegate the establishment of tuition for graduate and professional programs and out-of-state fees for all programs to the university boards of trustees.

The bill requires that each state university and FCS institution board of trustees publicly notice and notify all enrolled students of any proposal to increase tuition or fees at least 28 days before its consideration at a board of trustees meeting. The notice must be posted on the institution's website and issued in a press release. Additionally, the notice must include the day and time of the meeting, specific details of the original tuition and fee, the rationale for the increase and intended use of the funds generated by the increase in tuition rate or fee.

College Affordability

Present Situation

The average published annual cost of attendance for a full-time, undergraduate Florida resident at a state university for the 2013-14 academic year is \$20,529 for students living on campus and \$11,407 for students living off-campus with family. Comparably, at Florida College System (FCS) institutions, the average published annual cost of attendance for a full-time, Florida resident is \$16,511 for students living on campus and \$8,514 for students living off-campus with family.¹⁵ The cost of attendance data published by these institutions represents a general estimate and does not account for any financial assistance a student may receive.¹⁶

The average 2015-16 in-state tuition and fees at public four-year institutions in Florida is \$5,943, an increase of 7.4 percent over the last five years.¹⁷ The average 2014-15 in-state tuition and fees at public two-year institutions in Florida is \$3,156, an increase of 14.2 percent over the last five years.¹⁸ Nationally, the average cost of attendance has increased 6.4 percent at public four-year institutions and 14.8 percent at public two-year institutions from 2011-12 to 2013-14.¹⁹

Of the full-time resident undergraduates attending state universities, approximately 40 percent have a family income below \$40,000. At FCS institutions, approximately 50 percent of students have a family income below \$40,000.²⁰ According to the United States Department of Education Office of Federal Student Aid, 253,170 students enrolled in FCS institutions and 114,056 students enrolled in state universities have received federal Pell Grants for the 2014-15 year.²¹

¹⁴ Email, Department of Education, Florida College System (September 28, 2015).

¹⁵ Email, Florida Department of Education, Division of Florida Colleges and Florida Board of Governors, State University System (March 10, 2015)

¹⁶ Florida Board of Governors, *Affordability Study: presentation to the Education Appropriations Subcommittee* (March 4, 2015) available at

[http://myfloridahouse.gov/Sections/Documents/publications.aspx?CommitteeId=2830&PublicationType=Committees&DocumentType=Meeting Packets&SessionId=76](http://myfloridahouse.gov/Sections/Documents/publications.aspx?CommitteeId=2830&PublicationType=Committees&DocumentType=Meeting%20Packets&SessionId=76).

¹⁷ Board of Governors, Tuition and Fees, available at <http://www.flbog.edu/about/budget/current.php> (last visited September 24, 2015).

¹⁸ Florida Department of Education, Division of Florida Colleges, Tuition and Fees

¹⁹ U.S. Department of Education, College Affordability and Transparency Center, <http://collegecost.ed.gov/catc/> (last visited September 18, 2015)

²⁰ Florida Board of Governors, *Affordability Study: presentation to the Education Appropriations Subcommittee* (March 4, 2015) available at

[http://myfloridahouse.gov/Sections/Documents/publications.aspx?CommitteeId=2830&PublicationType=Committees&DocumentType=Meeting Packets&SessionId=76](http://myfloridahouse.gov/Sections/Documents/publications.aspx?CommitteeId=2830&PublicationType=Committees&DocumentType=Meeting%20Packets&SessionId=76).

²¹ U.S. Department of Education, Federal Student Aid, <https://studentaid.ed.gov/sa/about/data-center/student/title-iv> (last visited September 28, 2015) (Data reported does not include Florida Polytechnic University).

Current law regarding textbook affordability requires FCS institutions and state universities to post textbooks required for each course offered during the upcoming term at least 30 days prior to the beginning of the term. The posted list must include the International Standard Book Number (ISBN) for each required textbook or other identifying information, which must include, at a minimum: the title, all authors listed, publishers, edition number, copyright date, published date and any other relevant information necessary to identify the required textbook. Additionally, the State Board of Education (SBE) and the BOG are required to adopt policies, procedures, and guidelines for the implementation of efforts to further minimize the cost of textbooks for students while ensuring that the quality of education and academic freedom is maintained.²²

Effect of Proposed Changes

The bill requires the SBE and the BOG to annually identify strategies and initiatives to promote college affordability (including the impact of tuition & fees, financial aid policies, and textbook and instructional materials costs) and submit an annual report to the Governor, President of the Senate, and Speaker of the House of Representatives by December 31st of each year.

The bill also enhances the current textbook affordability law to provide students with sufficient time and information to seek out the lowest available prices by requiring each FCS institution and state university board of trustees to examine, by semester, the cost of textbooks and instructional materials by course and section for all general education courses offered at the institution. This examination is intended to identify the variance in the cost of textbooks and instructional materials among different sections of the same course and the percentage of materials that remained in use for more than one term. All courses identified to have a wide variance in cost or frequent changes in textbook or instructional material selection shall be identified and sent to the appropriate academic department chair for review. This provision shall expire on July 1, 2018, unless reviewed and reenacted.

The bill also requires each postsecondary institution to conduct cost benefit analyses that consider the following guiding principles:

- Purchasing digital textbooks in bulk;
- Expanding the use of open-access textbooks and instructional materials;
- Providing rental options for textbooks and instructional materials;
- Increasing the availability and use of affordable digital textbooks and learning objects;
- Developing mechanisms to assist in buying, renting, selling, and sharing textbooks and instructional materials; and
- Examining the length of time textbooks and instructional materials remain in use.

The bill authorizes state universities and Florida College System institutions to create innovative price structures for instructional materials by incorporating the cost of integrated digital materials into the cost of specific courses.

Each FCS institution and state university board of trustees shall report to their respective chancellor by September 30 of each year, the institution's textbook and instructional material selection process for general education courses with identified cost variances and high-enrollment courses, specific initiatives designed to reduce costs, policies implemented to address the guiding principles of the cost-benefit analysis, and the number of courses and sections that were unable to meet the textbook and instructional material posting deadline. By November 1 of each year, each chancellor is required to provide a summary of the institution reports to the SBE and BOG, as appropriate.

The bill extends the textbook affordability requirements to instructional materials which is defined as educational materials used within a course that are available in either print or digital format. Each FCS institution and state university must post in the course registration system and on its website a hyperlink to both required and recommended textbooks and course materials for each course being offered during the upcoming term.

²² Section 1004.085(3), F.S.
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The bill also requires FCS institutions and state universities to consult with school districts in identifying practices that impact the cost of dual enrollment textbooks and instructional materials to school districts, including the length of time textbook and related instructional materials should remain in use.

B. SECTION DIRECTORY:

Section 1. Amends s. 1001.7065, F.S., adding instructional materials to those costs not included in tuition at the Preeminent State Research University Institute for Online Learning at the University of Florida.

Section 2. Creates s. 1004.084, F.S., requiring the Board of Governors and the State Board of Education to annually identify strategies and initiatives aimed at promoting college affordability, including, but not limited to, tuition and fees, financial aid policies, cost of attendance, and the cost of textbooks and instructional materials. The bill also requires the submission of an annual report, by December 31, on identified college affordability initiatives.

Section 3. Amends s. 1004.085, F.S., providing a definition of “instructional materials”; requiring Florida College System institutions and state universities post prominently in course registrations systems and websites hyperlinks to lists of required and recommended textbooks and instructional materials for courses offered during the upcoming term; requiring postsecondary institutions to consult with school districts on the cost of dual enrollment textbooks; requiring postsecondary institutions to conduct cost-benefit analyses; requiring Florida College System institutions and state universities to annually report textbook affordability information to their respective chancellors; and requiring the Florida College System institution and state university boards of trustees to compile information regarding the instructional materials selection process for high enrollment courses and general education courses with a cost variance and overall instructional material affordability and report annually to the State Board of Education and Board of Governors, respectively. The bill also requires Florida College System institutions and state universities to examine, by semester, the cost of textbooks and materials for all general education courses to identify any variance in cost across different sections of the same courses. This provision expires July 1, 2018.

Section 4. Amends s. 1009.23, F.S., requiring each Florida College System institution to publicly notice any proposal to increase tuition or fees at least 28 days prior to it being considered at a board of trustees meeting; authorizing FCS institutions to assess an instructional materials user fee for courses that require integrated digital materials that are included as part of their learning management systems.

Section 5. Amends s. 1009.24, F.S., removing the Board of Governor’s authority to delegate the establishment of tuition for graduate and professional programs and out-of-state fees to the university boards of trustees; clarifying that materials and supplies fees may include integrated course materials and texts delivered digitally or through other technologies that are required for and used in a course; authorizing state universities to continue assessing tuition differential fees approved prior to July 1, 2015; eliminating the ability for a state university to seek approval for an increase in the tuition differential fee; clarifying that preeminent universities may increase the tuition differential by no more than 6 percent provided they meet specific performance benchmarks established by the Board of Governors; removing the requirement that seventy percent of tuition differential fee revenues be expended for the purpose of undergraduate education; and requiring each state university to publicly notice any proposal to increase tuition or fees at least 28 days prior to it being considered at a Board of Trustees meeting.

Section 6. Provides an effective date of July 1, 2016.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The bill removes the ability for universities to seek approval from the BOG for an increase in the tuition differential fee, effectively capping tuition differential fees at universities not designated as preeminent at the level in place as of July 1, 2015. This provision reduces the ability for universities to increase revenues in the Education and General Student and Other Fees Trust Fund.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Students at state universities and colleges will benefit from having a sufficient amount of time and information to seek out the lowest available prices for textbooks and instructional materials. In addition, students may realize significant cost savings when institutions incorporate required textbook and instructional materials costs into the cost of the course because institutions will be able to negotiate with publishers to obtain significantly lower prices on such instructional materials.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not appear to affect county or municipal governments.

2. Other:

B. RULE-MAKING AUTHORITY:

The bill may require the State Board of Education to modify rules relating to textbook affordability and Florida College System institution boards of trustees meeting notice policies.

The bill may also require the Board of Governors to modify regulations relating to textbook affordability, the delegation of the establishment of graduate and professional tuition and all out-of-state fees to the university boards of trustees, tuition differential fees, and Board of Governors and university boards of trustees meeting notice policies.

C. DRAFTING ISSUES OR OTHER COMMENTS:

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On November 18, 2015, the Higher Education and Workforce Subcommittee adopted two amendments authorizing state universities and Florida College System institutions to create innovative price structures for instructional materials by incorporating the cost of integrated digital materials into the cost of specific courses.

This analysis is drafted to the bill as amended and passed by the Higher Education and Workforce Subcommittee.