



Postsecondary Education & Workforce Subcommittee

January 10, 2024

9:00 PM

Morris Hall (17 HOB)

Meeting Packet

Committee Meeting Notice

HOUSE OF REPRESENTATIVES

Postsecondary Education & Workforce Subcommittee

Start Date and Time: Wednesday, January 10, 2024 09:00 am

End Date and Time: Wednesday, January 10, 2024 10:00 am

Location: Morris Hall (17 HOB)

Duration: 1.00 hrs

Consideration of the following bill(s):

HB 7007 OGSR/Campus Emergency Response by Ethics, Elections & Open Government Subcommittee, Griffitts

Presentation by Board of Governors staff on implementation of recently passed legislation.

To submit an electronic appearance form, and for information about attending or testifying at a committee meeting, please see the "Visiting the House" tab at www.myfloridahouse.gov.

NOTICE FINALIZED on 01/08/2024 4:01PM by Vernon.Andrea

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 7007 PCB EEG 24-05 OGSR/Campus Emergency Response

SPONSOR(S): Ethics, Elections & Open Government Subcommittee, Griffiths

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

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Ethics, Elections & Open Government Subcommittee	12 Y, 0 N	Rando	Toliver
1) Postsecondary Education & Workforce Subcommittee		Collins	Kiner

SUMMARY ANALYSIS

The Open Government Sunset Review Act requires the Legislature to review each public record exemption and each public meeting exemption five years after enactment. If the Legislature does not reenact the exemption, it automatically repeals on October 2nd of the fifth year after enactment.

Public postsecondary educational institutions, such as state universities and state colleges, must develop campus emergency response plans for responding to an act of terrorism or other public safety crisis or emergency. A campus emergency response includes things such as evacuation plans, shelter arrangements, vulnerability analyses, and the identification of certain students and staff. If campus emergency responses were made publicly available, they could be used to hinder the response of a public postsecondary institution to an act of terrorism or other public safety crisis or emergency.

Current law provides a public record exemption for a campus emergency response held by a public postsecondary educational institution, a state or local law enforcement agency, a county or municipal emergency management agency, the Executive Office of the Governor, the Department of Education, the Board of Governors of the State University System, or the Division of Emergency Management. Current law also provides a public meeting exemption for portions of a meeting where matters specifically exempt from disclosure are discussed.

The bill saves from repeal the public record and public meeting exemptions, which will repeal on October 2, 2024, if the bill does not become law. The bill also removes a superfluous provision of the exemption.

The bill does not appear to have a fiscal impact on state or local governments.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

Open Government Sunset Review Act

The Open Government Sunset Review Act (OGSR Act)¹ sets forth a legislative review process for newly created or substantially amended public record or public meeting exemptions. It requires an automatic repeal of the exemption on October 2nd of the fifth year after creation or substantial amendment, unless the Legislature reenacts the exemption.²

The OGSR Act provides that a public record or public meeting exemption may be created or maintained only if it serves an identifiable public purpose. In addition, it may be no broader than is necessary to meet one of the following purposes:

- Allow the state or its political subdivisions to effectively and efficiently administer a governmental program, which administration would be significantly impaired without the exemption.
- Protect sensitive personal information that, if released, would be defamatory or would jeopardize an individual's safety; however, only the identity of an individual may be exempted under this provision.
- Protect trade or business secrets.³

If, and only if, in reenacting an exemption that will repeal, the exemption is expanded, then a public necessity statement and a two-thirds vote for passage are required. If the exemption is reenacted with grammatical or stylistic changes that do not expand the exemption, if the exemption is narrowed, or if an exception to the exemption is created, then a public necessity statement and a two-thirds vote are not required.⁴

Campus Emergency Response

Postsecondary educational institutions must develop campus emergency response plans for responding to an act of terrorism⁵ or other public safety crisis or emergency.⁶ Specifically, a campus emergency response includes:

- Records, information, photographs, audio and visual presentations, schematic diagrams, surveys, recommendations, or consultations or portions thereof.
- Threat assessments conducted by any agency or private entity.
- Threat response plans.
- Emergency evacuation plans.
- Shelter arrangements.
- Manuals for security personnel, emergency equipment, or security training.
- Security systems or plans.
- Vulnerability analyses.
- Postdisaster activities, including provisions for emergency power, communications, food, and water.
- Postdisaster transportation.
- Supplies, including drug caches.
- Identification of staff involved in emergency preparedness, response, and recovery activities.

¹ Section 119.15, F.S.

² Section 119.15(3), F.S.

³ Section 119.15(6)(b), F.S.

⁴ Article I, s. 24(c), Fla. Const.

⁵ See s. 775.30(1), F.S., for the applicable definition of "terrorism."

⁶ Section 1004.0962(1), F.S.

- Emergency equipment.
- Individual identification of affected or at risk-students, faculty, and staff before, during, or after an emergency; the transfer of records concerning affected or at risk students, faculty, and staff; and methods of responding to family inquires.⁷

A campus emergency response often includes a public postsecondary educational institution's Comprehensive Emergency Management Plan (CEMP) and their Continuity of Operations Plan (COOP). A CEMP outlines the mitigation, preparation, response, and recovery actions of campus personnel for all hazards that could impact a college or university campus. A CEMP incorporates the use of the National Incident Management System to facilitate interagency coordination between responding agencies.⁸ An institution's CEMP should be consistent with their county's CEMP, the State of Florida's CEMP, and the National Response Framework.⁹ A COOP outlines the actions that must be taken to ensure essential services and activities do not cease during an emergency or disaster and identifies the individuals or agencies responsible for those actions.¹⁰

Public Record and Public Meeting Exemptions under Review

In 2017, the Legislature created an exemption from public records requirements for information associated with a public postsecondary institution's campus emergency response and held by a public postsecondary institution, a state or local law enforcement agency, a county or municipal emergency agency, the Executive Office of the Governor, the Department of Education, the Board of Governors of the State University System, or the Division of Emergency Management.¹¹

The Legislature also created a public meeting exemption for any portion of a meeting that would reveal information related to a campus emergency response.¹²

The 2017 public necessity statement¹³ for the exemptions provides the following:

A campus emergency response affects the health and safety of the students, faculty, staff, and the public at large. If campus emergency responses were made publicly available for inspection or copying, they could be used to hamper or disable the response of a public postsecondary institution to an act of terrorism, or other public safety crisis or emergency. If a public postsecondary educational institution's response to these events were hampered or disabled, an increase in the number of Floridians subjected to fatal injury would occur. There is ample evidence of the capabilities of terrorists and other criminals to plot, plan, and coordinate complicated acts of terror and violence on university and college campuses all over the country. The aftermath of these events has also showed the importance of viable plans by which public postsecondary educational institutions can respond to terrorist attacks and other public safety crises or emergencies.¹⁴

Current law also authorizes custodians of such information to disclose the exempt information:

- To another governmental entity if disclosure is necessary for the receiving entity to perform its duties and responsibilities; or

⁷ Section 1004.0962(1), F.S.

⁸ See Comprehensive Emergency Management Plan, *Division of Emergency Management*, available at <https://portal.floridadisaster.org/preparedness/External/CEMP/2022%20State%20CEMP%20Base%20Plan.pdf> (last visited October 19, 2023).

⁹ *Id.*

¹⁰ See Continuity of Operations Implementation Guidance, *Division of Emergency Management*, available at <https://www.floridadisaster.org/globalassets/importedpdfs/coop-implementation-guidance.pdf#:~:text=The%20disaster%20preparedness%20plans%2C%20otherwise%20referred%20to%20as,of%20selected%20Stat%20personnel%20and%20functions%20is%20required> (last visited October 19, 2023).

¹¹ Chapter 2017-184, L.O.F.; codified as s. 1004.0962, F.S.

¹² Section 1004.0962(5), F.S.

¹³ Article I, s. 24(c), Fla. Const., requires each public record exemption to "state with specificity the public necessity justifying the exemption."

¹⁴ Chapter 2017-184, L.O.F.

- Upon a showing of good cause before a court of competent jurisdiction.¹⁵

However, this authorization appears unnecessary because records designated “exempt” may be released at the discretion of the records custodian under certain circumstances.¹⁶ The mere transfer from one government entity to another does not change the character of the information with respect to its exemption.¹⁷

In 2022, the Legislature reviewed the public record and public meeting exemptions and extended the repeal date from October 2, 2022, to October 2, 2024. The public record exemption was narrowed to provide that the identification of staff involved in emergency preparedness, response, and recovery activities is exempt instead of staffing information generally.¹⁸ The public record exemption was also narrowed to provide that the individual identification of students, faculty and staff applies only to those persons affected or at risk before, during, or after an emergency. Lastly, the provision of the exemption protecting the transfer of records was narrowed to apply to only affected or at-risk students, faculty, and staff.

Pursuant to the OGSR Act, these exemptions will repeal on October 2, 2024, unless reenacted by the legislature.¹⁹

During the 2023 interim, subcommittee staff sent questionnaires to all 12 of the State University System (SUS) institutions and all 28 of the Florida College System (FCS) institutions.²⁰ Several SUS and FCS institutions indicated that a campus emergency response includes plans such as their CEMP and COOP, which outline the overall framework for responding to emergencies, as well as plans for more specific situations such as responding to dangerous weather, bomb threats, active shooters, and evacuation procedures.²¹ Of the SUS and FCS institutions that responded to the questionnaire, all respondents — except one which declined to give a recommendation — recommended that the exemption be reenacted as is.

Effect of the Bill

The bill removes the scheduled repeal of the exemptions, thereby saving the public record exemption and public meeting exemption from repeal. The bill also removes a superfluous provision of the exemption that authorizes entities to disclose the exempt information in specified circumstances, as entities are not prohibited from disclosing the information.

B. SECTION DIRECTORY:

Section 1: 1004.0962, F.S., relating to public record and public meeting exemptions for a campus emergency response of a public postsecondary educational institution.

Section 2: provides an effective date of October 1, 2024.

¹⁵ Section 1004.0962(4), F.S.

¹⁶ There is a difference between records the Legislature designates exempt from public record requirements and those the Legislature designates confidential and exempt. A record classified as exempt from public disclosure may be disclosed under certain circumstances. See *WFTV, Inc. v. Sch. Bd. of Seminole*, 874 So.2d 48, 53 (Fla. 5th DCA 2004), *review denied*, 892 So.2d 1015 (Fla. 2004); *State v. Wooten*, 260 So. 3d 1060, 1070 (Fla. 4th DCA 2018); *City of Riviera Beach v. Barfield*, 642 So.2d 1135 (Fla. 4th DCA 1994); *Williams v. City of Minneola*, 575 So.2d 683, 687 (Fla. 5th DCA 1991). If the Legislature designates a record as confidential and exempt from public disclosure, such record may not be released by the custodian of public records to anyone other than the persons or entities specifically designated in statute. See Op. Att’y Gen. Fla. 04- 09 (2004).

¹⁷ *City of Riviera Beach v. Barfield*, 642 So.2d 1135, 1137 (Fla. 4th DCA 1994) (Transfer of police record to another agency did not remove exemption status).

¹⁸ Chapter 2022-133, L.O.F.

¹⁹ Section 1004.0962(6), F.S.

²⁰ Open Government Sunset Review Questionnaire, Campus Emergency Response Plans, responses on file with the Ethics, Elections & Open Government Subcommittee.

²¹ *Id.*

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.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. The bill does not appear to require counties or municipalities to spend funds or take action requiring the expenditures of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill does not require rulemaking nor confer or alter an agency's rulemaking authority.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

None.

1 A bill to be entitled
 2 An act relating to a review under the Open Government
 3 Sunset Review Act; amending s. 1004.0962, F.S., which
 4 provides an exemption from public record and public
 5 meeting requirements for those portions of a campus
 6 emergency response which address the response of a
 7 public postsecondary educational institution to an act
 8 of terrorism or other public safety crisis or
 9 emergency; removing a provision allowing disclosure of
 10 certain information to certain entities; removing the
 11 scheduled repeal of the exemption; providing an
 12 effective date.

13
 14 Be It Enacted by the Legislature of the State of Florida:

15
 16 Section 1. Subsections (4), (5), and (6) of section
 17 1004.0962, Florida Statutes, are amended to read:

18 1004.0962 Campus emergency response of a public
 19 postsecondary educational institution; public records exemption;
 20 public meetings exemption.—

21 ~~(4) Information made exempt by this section may be~~
 22 ~~disclosed:~~

23 ~~(a) To another governmental entity if disclosure is~~
 24 ~~necessary for the receiving entity to perform its duties and~~
 25 ~~responsibilities; or~~

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2024

26 ~~(b) Upon a showing of good cause before a court of~~
 27 ~~competent jurisdiction.~~

28 (4)-(5) That portion of a public meeting which would reveal
 29 information related to a campus emergency response is exempt
 30 from s. 286.011 and s. 24(b), Art. I of the State Constitution.

31 ~~(6) This section is subject to the Open Government Sunset~~
 32 ~~Review Act in accordance with s. 119.15 and shall stand repealed~~
 33 ~~on October 2, 2024, unless reviewed and saved from repeal~~
 34 ~~through reenactment by the Legislature.~~

35 Section 2. This act shall take effect October 1, 2024.

Legislative Implementation Update



Legislative Implementation Update

Chancellor Ray Rodrigues

January 10, 2024

www.flbog.edu



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Overview



Bill	Topic
SB 732	Purple Star Campuses
SB 274	Credit for military combat medics
SB 7026	University bonus plans
SB 846	Foreign influence
SB 783	Emergency Opioid Antagonists
SB 266	General education, post-tenure review, & diversity, equity, & inclusion
SB 240	Programs of Strategic Emphasis & Workforce Education Partnership
	Update on recent tuition waivers

SB 732: Purple Star Campuses



Overview

- ◆ Institutions can receive a Purple Star Campus designation if they provide specified services to military students & their families
- ◆ Develop a regulation to establish the Collegiate Purple Star Campuses Program

Implementation



Completed

Amended Board Regulation 6.013, which outlines requirements for the program

Nov 2023



Completed

Developed an application template for state universities

Sept 2023

SB 274: Credit for Military Combat Medics



Overview

Establishes a pathway for eligible military combat medics to earn postsecondary credit towards accredited nursing education programs

Implementation



Completed

Articulation Coordinating Committee (ACC) developed & approved a policy for awarding postsecondary credit to military combat
Oct 2023



Completed

Board of Governors approved the ACC policy
Nov 2023



In progress

Amendment to Regulation 6.013 to reference policy & equivalencies
Jan 2024



Not started

ACC will recommend course equivalencies to be approved by Board of Governors & State Board
Spring 2024

SB 7026: University Bonus Plans



Overview

Requires each board of trustees to submit an annual report to the Board of Governors related to employee bonuses

Implementation

Amended Board Regulation 9.015 to align with the statutory changes, which requires the universities to notify the Board on an annual basis of any bonuses provided to university employees



Completed

Nov 2023



Not started

Board staff will collect & compile the reports

Summer 2024

SB 846: Foreign Influence



Overview

- ◆ Outlines new requirements for relationships between state universities & foreign countries of concern
- ◆ Requires Board approval for universities to participate in agreements or partnerships with foreign principals from countries of concern
- ◆ Requires annual reporting

Implementation

-  Completed Amended Board Regulation 9.012 to align with new requirements
Sept 2023
-  Completed Sent guidance on implementation to universities
Sept 2023
-  Completed Developed a form for approval items
Sept 2023

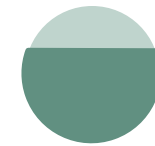
SB 783: Emergency Opioid Antagonists



Overview

Injectable opioid antagonists must be located in all student residence halls & dormitories owned or operated by universities

Implementation



In progress

Developed proposed Board Regulation 14.011, which requires institutions to provide emergency opioid antagonists in all university housing

Jan 2024

SB 266: General Education Core Course Options



Overview

- ◆ Establish faculty committees to review core course options
- ◆ Articulation Coordinating Committee, Board of Governors, & State Board approve general education core courses
- ◆ Universities follow the course descriptions in the Statewide Course Numbering System for core courses
- ◆ Includes reporting requirements for general education courses & other provisions

Implementation



Completed

Appointed faculty to discipline committees to review the current general education core courses, content, & descriptions
Aug-Oct 2023



Completed

Revised the general education core course options
Nov 2023



In progress

Amended Board Regulation 8.005, General Education Core Course Options, to align with statute
Jan 2024



Not started

Universities will submit general education course lists for approval
2024

SB 266: Post-tenure Review



Overview

- ◆ Assigns final authority for hiring to the university presidents
- ◆ Requires university presidents to present performance evaluation results before their board of trustees
- ◆ Specifies that faculty grievances may not be appealed beyond the university president or designee
- ◆ Requires universities to issue final dispositions in writing to faculty & final dispositions are not subject to arbitration

Implementation



Completed

Amended Board Regulation 10.003, Post-Tenure Faculty Review, to comply with the new statutory language
Nov 2023

SB 266: Diversity, Equity, & Inclusion



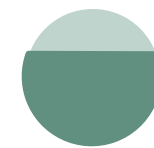
Overview

Prohibits a university or university direct-support organization from expending any state or federal funds, regardless of source, to promote, support, or maintain any programs or campus activities that:

(a) Violate section 1000.05, Florida Statutes; or

(b) Advocate for diversity, equity, and inclusion, or promote or engage in political or social activism

Implementation



In progress

Developed proposed Board Regulation 9.016, Prohibited Expenditures, to provide definitions & implement amendments to section 1004.06, Florida Statutes

Jan 2024

SB 240: Programs of Strategic Emphasis



The Board approved a new methodology & list Effective for the 2024-25 Academic Year



Implemented statutory requirements

HB 1507 (2021) & SB 240 (2023) amended section 1001.706, Florida Statutes



Incorporated input from key stakeholders

Staff from the Governor's office, legislature, universities, key agencies, & the private sector



Focus on Florida's most critical workforce shortages

Both now & in the future



Provide a strong return on investment for students & Florida

Degrees to support in-demand fields with high wages

SB 240: Workforce Education Partnership Program



Overview

- ◆ Creates a program for students who enroll at state universities & are employed by a private employer
- ◆ Develop a regulation & application template for state universities

Implementation



Completed

Adopted Board Regulation 8.015, which outlines requirements for the program

Nov 2023



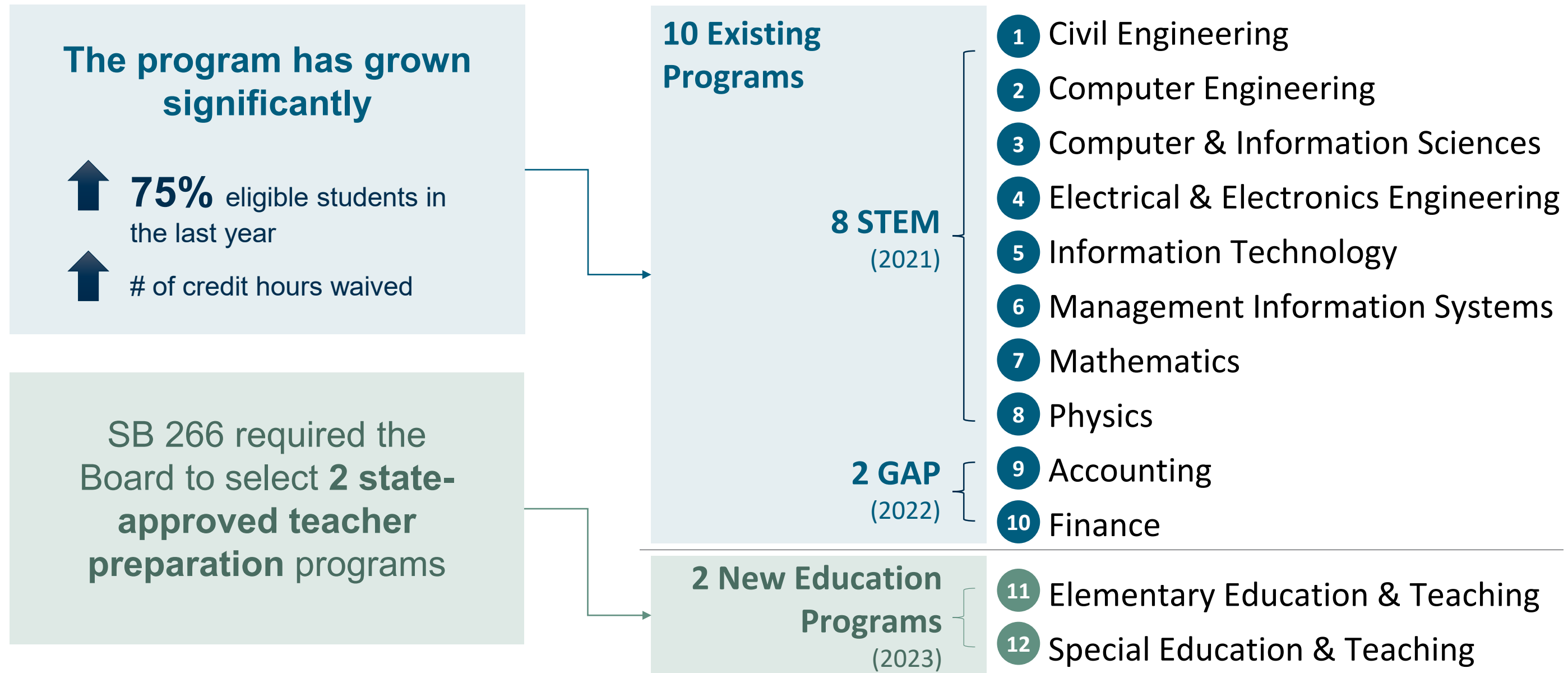
Completed

Developed an application template for state universities

Sept 2023

Tuition Waivers & Exemptions

Programs of Strategic Emphasis Waiver



Tuition Waivers & Exemptions

Grandparent Waiver



Waivers Allocated to the Universities
by Academic Year

	2022-23	2023-24
FAMU	4	3
FAU	12	6
FGCU	15	8
FIU	6	3
FL Poly	3	1
FSU	67	90
NCF	4	0
UCF	51	51
UF	145	169
UNF	6	2
USF	34	17
UWF	3	0
Total	350	350

350

**Grandparent Waivers were
allocated to incoming
freshmen in Fall 2023**

UF had the most at 169



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