



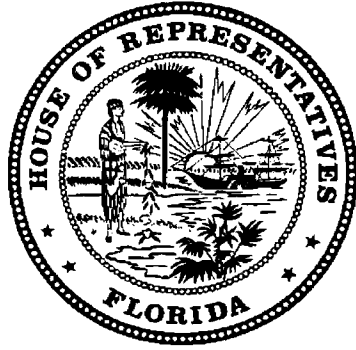
Higher Education & Workforce Subcommittee

**Monday, February 1, 2016
12:30 p.m. – 2:30 p.m.
102 HOB**

Meeting Packet

**Steve Crisafulli
Speaker**

**Elizabeth Porter
Chair**



AGENDA

Higher Education & Workforce Subcommittee
Monday, February 1, 2016
12:30 p.m. – 2:30 p.m.
102 HOB

- I. Call to Order and Roll Call
- II. Opening Remarks
- III. Consideration of the following proposed committee substitute:
 - PCS for HB 1053 -- Independent Postsecondary Educational Institutions by Plakon
- IV. Consideration of the following bill(s):
 - HB 1311 Postsecondary Education Fees by Rehwinkel Vasilinda
- V. Closing Remarks and Adjournment



Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	___	(Y/N)
ADOPTED AS AMENDED	___	(Y/N)
ADOPTED W/O OBJECTION	___	(Y/N)
FAILED TO ADOPT	___	(Y/N)
WITHDRAWN	___	(Y/N)
OTHER	_____	

1 Committee/Subcommittee hearing bill: Higher Education &
 2 Workforce Subcommittee

3 Representative Plakon offered the following:

4
 5 **Amendment (with directory and title amendments)**

6 Between lines 255 and 256, insert:

7 (2) At least 30 days prior to closing an institution, its
 8 owners, directors, or administrators shall notify the commission
 9 in writing of the closure of the institution. The owners,
 10 directors, and administrators must organize an orderly closure
 11 of the institution, which means at least providing for the
 12 completion of training of its students. The commission must
 13 approve any such plan. An owner, director, or administrator who
 14 fails to notify the commission at least 30 days prior to the
 15 institution's closure, or who fails to organize the orderly
 16 closure of the institution and the trainout of the students,



Amendment No. 1

17 | commits a misdemeanor of the first~~second~~ degree, punishable as
18 | provided in s. 775.082 or s. 775.083.

19 |
20 |

21 | -----

D I R E C T O R Y A M E N D M E N T

22 |

Remove lines 251-252 and insert:

23 |

Section 7. Subsection (2) of section 1005.36, Florida

24 |

Statutes, is amended, subsections (3) and (4) of that section

25 |

are renumbered as subsections (4) and (5),

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28 | -----

T I T L E A M E N D M E N T

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Remove line 42 and insert:

30 |

F.S.; revising criminal penalties for unlawful institutional



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closures; requiring the commission to create a Closed

32 |

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: PCS for HB 1053 Independent Postsecondary Educational Institutions
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		Banner 	Bishop 

SUMMARY ANALYSIS

The Commission for Independent Education (CIE or commission), within the Department of Education, is responsible for exercising independently all powers, duties and functions relating to independent postsecondary institutions under its jurisdiction. The bill:

- Revises the membership of the commission to more closely align the representatives with the institutions under the jurisdiction of the commission;
- Requires that no commission member serve more than three consecutive 3-year terms, or until a successor is appointed and qualified, whichever comes first;
- Requires the commission to approve its annual budget and appoint a committee to review all complaints not closed within 90 days;
- Authorizes the commission to limit the number of students or prohibit enrollment of new students at institutions with low performance;
- Requires each licensed institution to disclose all fees and costs that will be incurred to complete a program of study;
- Requires a retention and management completion plan for all licensed institutions;
- Requires a surety bond or alternative cash deposit escrow account or irrevocable letter of credit for all institutions that are unable to provide sufficient evidence of financial stability or whose money is outside the United States;
- Clarifies that the commission has 30 days after receipt of an application to examine the application and notify an applicant of any errors or omissions;
- Aligns Florida law with the ruling in University of Phoenix v. Bradley, et. al., by removing the requirement that institutions seeking licensure by means of accreditation be a Florida corporation;
- Creates, by October 1, 2016, the Closed Institution Panel which shall convene to implement measure that will minimize the academic, logistical and financial impact on students during a closure;
- Requires all licensed institutions be charged fees associated with the Student Protection Fund until such time as the fund balance reaches \$5 million, at which time collection of fees will be suspended for one calendar year;
- Requires, by July 1, 2017, and annually thereafter, that the commission verify that all administrators subject to continuing education requirements have completed training on state and federal laws and regulations specifically pertaining to the operation of nonpublic postsecondary institutions; and
- Requires the commission to prepare an annual accountability report for licensed institutions by March 15 of each year and establish, by rule, performance benchmarks to identify high-performing institutions.

The bill becomes effective on July 1, 2016.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Commission for Independent Education

Present Situation

The Commission for Independent Education (CIE or commission), within the Department of Education, is responsible for exercising independently all powers, duties and functions relating to independent postsecondary educational institutions under its jurisdiction.¹ An independent postsecondary institution means "any postsecondary educational institution that operates in the state or makes application to operate in this state, and is not provided, operated, and supported by the State of Florida, its political subdivisions, or the Federal Government."²

The commission is comprised of seven members:

- Two representatives of independent colleges or universities licensed by the commission;
- Two representatives of independent, nondegree-granting schools licensed by the commission;
- One member from a public school district or Florida College System institution who is an administrator of career education;
- One representative of a religious postsecondary institution not subject to oversight by the commission³; and
- One lay member who is not affiliated with an independent postsecondary educational institution⁴

Currently, commission members are appointed to 3-year terms and continue to serve until such time as their successor is appointed and qualified.

The commission approves applications for licensure to operate in the state and award diplomas and degrees, and on matters concerning consumer protection and program improvement.⁵ The powers and duties of the commission include, but are not limited to, the following administrative duties:

- Adopt rules for the operation and establishment of independent postsecondary educational institutions and submit rules to the State Board of Education (SBE) for approval;
- Submit an annual budget to the SBE;
- Transmit all fees, donations, and other monies to the Institutional Assessment Trust Fund; and
- Expend funds as necessary to assist in the application and enforcement of all powers and duties.⁶

Among its responsibilities, the commission is required to establish and publicize the procedures for receiving and responding to complaints from students, faculty, and others concerning institutions or programs under the purview of the commission and keep records of such complaints to determine the frequency and nature of the complaints.⁷

Additionally, the commission may:

- Sue or be sued;
- Enter into contracts with the Federal Government, other state departments or with individuals;

¹ Section 1005.21(1), Florida Statutes

² Section 1005.02(11), Florida Statutes

³ Section 1005.06(1)(f), Florida Statutes

⁴ Section 1005.21(2), Florida Statutes

⁵ Section 1005.21(2), Florida Statutes

⁶ Section 1005.22(1)(e), Florida Statutes

⁷ Section 1005.22(1)(k), Florida Statutes

- Receive bequests or gifts;
- Appoint standing or special committees, which may include members who are not members of the commission, to assist in carrying out its responsibilities;
- Advise the Governor, Legislature, SBE, and the Commissioner of Education on matters related to private postsecondary education;
- Delegate to the chairperson of the commission the responsibility of signing final orders;
- Assist independent postsecondary educational institutions in formulating articulation agreements with public or other independent institutions;
- Establish and operate additional offices in the central and southern parts of the state if the concentration of licensed institutions renders such an office economically feasible; and
- Establish and administer the Student Protection Fund.⁸

Proposed Changes

The bill revises the membership of the commission by removing the representative from a public school district or Florida College System institution who is an administrator of career education and instead adding a representative of an employer of graduates of institutions licensed by the commission. The employer may not have any relationship with an institution licensed by the commission except for the status of employer of graduates of the institution.

The bill also removes the representative of a religious postsecondary institution not under the jurisdiction or purview of the commission and instead adds a graduate of an institution that is subject to licensure by the commission. The graduate may not have any relationship with an institution licensed by the commission except for the status of alumnus.

Public schools, Florida College System institutions and religious colleges are not under the jurisdiction or purview of the commission and do not participate in the licensing process, therefore having a representative of these institutions on the commission is not "beneficial" to the commission.⁹

The bill also requires that no member serve more than three consecutive 3-year terms, or until a successor is appointed and qualified, whichever comes first.

The bill modifies the powers and duties of the commission to require that the commission approve an annual budget before submission to the State Board of Education and appoint a committee to review all student, faculty or other complaints not closed within 90 days. The bill also authorizes the commission to limit the number of students in a program or prohibit the enrollment of new students at a licensed institution based on the performance of the institution.

Fair Consumer Practices

Present Situation

Each private postsecondary institution under the jurisdiction of the commission as well as those expressly exempt from the jurisdiction of the commission that directly or indirectly solicits enrollment must do the following:

- Disclose to each prospective student a statement of purpose that includes educational programs and curricula, a description of the physical facilities, licensure status, and fee schedule and related policies at least one week prior to enrollment or collection of tuition;
- Assess, prior to accepting a student, the student's ability to complete a course of study successfully;

⁸ Section 1005.22(2), Florida Statutes

⁹ Florida Department of Education, 2016 Agency Bill Analysis for SB 800 (December 23, 2015).

- Accurately inform each student about financial assistance and obligations for repayment of loans, describe any employment placement services available, and refrain from promising or implying guaranteed placement, market availability or salary amounts;
- Provide prospective and enrolled students accurate information regarding the relationship of its programs to state licensure requirements for practicing related occupations and professions in Florida;
- Ensure all advertisements are accurate and not misleading;
- Publish and follow an equitable prorated refund policy for all students and follow both the federal guidelines regarding the receipt of federal financial assistance and commission rule regarding minimum refund guidelines;
- Follow the requirements of state and federal laws requiring annual reporting of crime statistics and physical plant safety; and
- Publish and follow procedures for handling student complaints, disciplinary actions and appeals.¹⁰

Proposed Changes

The bill expands fair consumer practices provisions by requiring each institution to disclose to all prospective students all fees and costs that will be incurred to complete a program of study. This disclosure will further assist students with planning for the program of study at the institution.

Licensure of Institutions

Present Situation

The commission is responsible for developing minimum standards by which to evaluate institutions for licensure. These standards must include, at least, the institution's name, financial stability, purpose, administrative organization, admissions and recruitment, educational programs and curricula, retention, completion, career placement, faculty, learning resources, student personnel services, physical plant and facilities, publications and disclosure statements about the status of the institution with respect to professional certification and licensure.¹¹ All postsecondary institutions under the jurisdiction or purview of the commission must obtain licensure from the commission in order to operate in the state of Florida.¹²

Approved-applicant status may be extended to all institutions that have submitted a complete application for provisional licensure and paid all attendant fees. Institutions granted approved-applicant status may not advertise, offer programs of study, collect tuition or fees, or engage in any other activities not specifically approved by the commission.¹³

The commission shall ensure, through an investigative process that applicants for licensure meet the specified standards and may issue a licensure delay if this investigative process is not completed within the statutory limits of the Administrative Procedures Act.¹⁴ Agencies must provide notice of any apparent errors or omissions in an application for licensure within 30 days.¹⁵ The law also prohibits the denial of an application for failure to correct an error or omission if the appropriate 30 day notification is not provided.¹⁶ The commission may extend 90 days.

¹⁰ Section 1005.04, Florida Statutes

¹¹ Section 1005.31(2), Florida Statutes

¹² Sections 1005.31(1)(a) and 1005.06(1), Florida Statutes

¹³ Section 1005.31(4), Florida Statutes

¹⁴ Section 1005.31(6), Florida Statutes

¹⁵ Section 120.60, Florida Statutes

¹⁶ Id.

Independent postsecondary educational institutions may apply for a license by means of accreditation from the commission if the institution:

- Has operated legally in the state for at least 5 consecutive years;
- Holds institution accreditation by an accrediting agency evaluated and approved by the commission as having standards substantially equivalent to the commission's licensure standards;
- Has no unresolved complaints or actions in the past 12 months;
- Meets minimum requirements for financial responsibility as determined by the commission; and
- Is a Florida corporation.¹⁷

An institution that is granted a license by means of accreditation must comply with the standards and requirements in law including provisions related to fair consumer practices, orderly closing, trainout or refunds, and disposition of student and institutional records. With the exception of submitting an annual audit report, the commission may not require institutions that are licensed by means of accreditation to submit reports that differ from those reports required by the institution's accrediting agency.¹⁸

In 2008, the United States District Court for the Northern District of Florida found that the commission's requirement that a postsecondary institution be a Florida corporation in order to qualify for licensure by means of accreditation violated the Commerce Clause of the United States Constitution.¹⁹ Accordingly, the court has enjoined the commission from applying this requirement for purposes of licensure.

Proposed Changes

The bill modifies the minimum standards for evaluating institutions for licensure by specifying that the standards for retention and completion include a retention and completion management plan, prescribed by the commission. Institutions that are licensed by means of accreditation are also required to submit this plan.

The bill authorizes the commission to require that institutions that do not provide sufficient evidence of financial stability at the time of application for a provisional license or that are dependent upon financial resources outside the United States to post and maintain a surety bond. The purpose of the surety bond is to assist enrolled students in completing their program in the event the institution closes prior to receiving its first annual licensure renewal from the commission. As an alternative to the surety bond, the commission may require an institution to establish and maintain a cash deposit escrow account or an irrevocable letter of credit payable to the commission in an amount not to exceed 50 percent of the institution's projected revenue for the first year. The SBE is authorized to adopt rules to implement the specific requirements of this provision.

The bill clarifies that the commission shall, within 30 days of the receipt of an application, examine the application and notify the applicant of any apparent errors or omissions and request any additional information from the applicant that may be necessary.

The bill aligns Florida law with the federal court ruling by removing the requirement that institutions seeking licensure by means of accreditation be a Florida corporation.

Institutional Closings

Present Situation

Current law requires that the owners, directors or administrators of an institution notify the commission in writing, at least 30 days prior to the closing of an institution. The owners, directors or administrators

¹⁷ Section 1005.32(1), Florida Statutes

¹⁸ Section 1005.32, Florida Statutes

¹⁹ See *University of Phoenix v. Bradley, et al.*, Case No. 4:08cv217 (N.D. Fla.).

must organize a plan for the orderly closure of the institution, which at a minimum includes providing for the completion of training of its students, for approval by the commission.²⁰

An owner, director or administrator who fails to notify the commission at least 30 days prior to the institution's closure or fails to organize the orderly closure of the institution and the trainout of the students, commits a second degree misdemeanor.²¹

In the event an institution ceases operations without providing the proper access to student records, the commission may require the institution to convey all records to the commission office or other designated location. The commission shall make copies of records available to bankruptcy trustees and students upon request and maintain the confidentiality of the records to the extent required by law. Additionally, the commission may seek civil penalties not to exceed \$10,000 in the event institutional and student records are knowingly destroyed, abandoned or not provided. The commission may use funds from the Student Protection Fund to facilitate the retrieval or safekeeping of records from an institution that has closed.²²

Proposed Changes

The bill requires the commission to create, by October 1, 2016, the Closed Institution Panel, comprised of at least the following:

- One commission member,
- One commission staff member,
- One accrediting body staff member, and
- One administrator with experience managing licensed institutions.

The commission shall notify the panel upon the closure of a licensed institution. If an institution unlawfully closes, or upon the call of the chair, the panel shall convene to implement measures that will minimize the academic, logistical and financial impact on the students of the institution. The panel is authorized to secure student records and, to the extent possible, maintain the educational programs at the institution for at least 30 days after the notification of closure. The activities of the panel shall be conducted at the expense of the closing institution.

Student Protection Fund

Present Situation

The commission shall establish and administer a statewide, fee-supported financial program through which funds are available to complete the training of students who enroll in a nonpublic school that terminates a program or ceases operations before the student has completed the program of study.²³

The commission is authorized to assess a fee from all schools within its jurisdiction for such a purpose and assess a licensed school an additional fee for its eligibility for the Student Protection Fund.²⁴ In the event an institution terminates a program before all students complete, the commission shall also assess a fee adequate to pay the full cost to the Student Protection Fund for the training of students.²⁵

²⁰ Section 1005.36(2), Florida Statutes

²¹ Id.

²² Section 1005.36(3), Florida Statutes

²³ Section 1005.37(1), Florida Statutes

²⁴ Section 1005.37(2), Florida Statutes

²⁵ Section 1005.37(3), Florida Statutes

The Student Protection Fund must remain actuarially sound, be periodically audited by the Auditor General in connection with the audit of the Department of Education, and reviewed to determine if additional fees must be charged to schools eligible to participate in the fund.²⁶

All schools obtaining licensure by the commission are assessed a base fee and a workload fee based upon the Florida student enrollment for the last reported fiscal year ending June 30th. Florida student enrollment consists of all students enrolled in a Florida campus of a licensed school and all distance education students whose mailing address, for purposes of receiving materials from the school, is a Florida address.²⁷ Licensed non-degree granting schools pay annually to the Student Protection Fund in a specified amount equal to .05 percent of the annual tuition revenue generated in Florida.²⁸

There are currently 588 non-degree granting institutions paying into the Student Protection Fund. As of January 19, 2016, the balance in the Student Protection Fund is approximately \$2.0 million.²⁹

Proposed Changes

The bill expands the Student Protection Fund to include all licensed institutions, not just those that are non-degree granting. There are currently 443 degree granting institutions under the jurisdiction of the commission.

The bill also requires the commission to annually determine the fees to support the fund and if the fund total is in excess of \$5 million on November 1, suspend the collection of fees for the next calendar year.

Continuing Education and Training

Present Situation

The commission is authorized to ensure that the administrators of licensed institutions are qualified to conduct the operations of their respective positions and to require such administrators and faculty to receive continuing education and training. The positions for which the commission may require continuing education and training may include the chief administrator or officer, director of education or training, placement director, admissions director, financial aid director and faculty members.³⁰

The training shall focus on assuring compliance with statutes and rules of the commission, the State Board of Education, and with those of other state or federal agencies. The commission shall adopt general qualifications for each position and establish guidelines for the minimum amount and type of continuing education and training to be required. The continuing education and training may be provided by the commission, appropriate state or federal agency, or professional organization familiar with the requirements.³¹

Proposed Changes

The bill requires the commission to determine if the administrators of licensed institutions are qualified to conduct the operations of their respective positions and adds the chief campus officer to those positions requiring training.

The bill requires by July 1, 2017, and annually thereafter, that the commission verify that all administrators subject to continuing education requirements have completed training on state and

²⁶ Section 1005.37(7), Florida Statutes

²⁷ Rule 6E-4.001, F.A.C.

²⁸ Rule 6E-4.005, F.A.C.

²⁹ Email correspondence with Florida Department of Education staff. January 28, 2016. On file with Higher Education and Workforce Subcommittee.

³⁰ Section 1005.39(1), Florida Statutes

³¹ Section 1005.39, Florida Statutes

federal laws and regulations specifically pertaining to the operation of nonpublic postsecondary institutions.

The bill authorizes licensed institutions to provide continuing education upon the approval of the commission.

Accountability

Present Situation

Current law provides for the systematic, ongoing evaluation of quality and effectiveness of state universities and Florida College System institutions through annual performance and accountability reporting. While the institutions under the jurisdiction or purview of the commission report on performance and other accountability metrics to the federal government through the Integrated Postsecondary Education Data System (IPEDS), these institutions are not currently required to report to the commission.

Proposed Changes

The bill requires the commission to prepare an annual accountability report for licensed institutions by March 15 of each year. The report must contain, at a minimum, graduation, retention and placement rates for all licensed institutions. Data shall be collected using the FETPIP methodology and the commission must establish a common set of data definitions that are consistent with those used by the U.S. Department of Education for institutional reporting purposes.

The bill requires each licensed institution to provide data to the commission by November 30 of each year in a format prescribed by the commission and directs the commission to impose an administrative fine of not more than \$1,000 in the event a licensed institution fails to timely submit the required data timely. These administrative fines will be deposited in the Student Protection Fund.

The bill directs the commission to establish, by rule, performance benchmarks to identify high-performing institutions. Licensed institutions with graduation, retention and placement rates equal to or greater than the average rates of all Florida universities, colleges or career centers, as appropriate, may receive and use the designation of high performing.

B. SECTION DIRECTORY:

Section 1. Amends s. 1005.04, F.S., to require that each institution disclose all fees and costs that will be incurred to complete a program of study.

Section 2. Amends s. 1005.11, F.S., to create an annual accountability reporting requirement for all institutions licensed by the commission; authorize the assessment of an administrative fine for institutions that fail to report data in a timely fashion; and authorize the designation of high performing for all licensed institutions with graduation, retention and placement rates equal to or higher than the average rate of the appropriate public institution system.

Section 3. Amends s. 1005.21, F.S., to modify the composition of the Commission of Independent Education to replace the representatives of a public school district or Florida College System institution who is an administrator of career education and a religious college exempt from licensure by the commission with an employer of graduates and a graduate of an institution subject to licensure by the commission.

Section 4. Amends s. 1005.22, F.S., to require the commission to approve the annual budget before submission to the State Board of Education; appoint a committee to review all student, faculty or other

complaints not closed within 90 days; and limit the number of students or prohibit enrollment of new students in a program based on institution performance.

Section 5. Amends s. 1005.31, F.S., to require the inclusion of a retention and completion management plan as part of the minimum standards to evaluate institutions for licensure; authorize the commission to require a surety bond or as an alternative a cash deposit escrow account for institutions unable to provide sufficient evidence of financial stability; provide the commission 30 days after the receipt of an application to examine the application and notify the applicant of any error or omission and request necessary additional information.

Section 6. Amends s. 1005.32, F.S., to remove the requirement that institutions obtaining licensure by means of accreditation be a Florida corporation and require these institutions to submit a retention and completion management plan.

Section 7. Amends s. 1005.36, F.S., to direct the Commission for Independent Education to establish, by October 2, 2016, a Closed Institution Panel, to implement measures to minimize the academic, logistical, and financial impact on students following the closing of a licensed institution.

Section 8. Amends s. 1005.37, F.S., to require all licensed institutions to pay fees to support the Student Protection Fund and suspend the collection of fees for one year if the fund total is in excess of \$5 million.

Section 9. Amends s. 1005.39, F.S., to require the commission to ensure that all administrators subject to continuing education and training complete training on state and federal laws and regulations specifically related to operating a nonpublic postsecondary institution; add chief campus officer to those positions required to receive training; and authorize the commission to approve licensed institutions under its jurisdiction to provide continuing education and training.

Section 10. Provides an effective date of July 1, 2016.

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:

Currently, only non-degree granting institutions under the jurisdiction of the commission are subject to the annual Student Protection Fund fees. The bill expands this requirement to all licensed institutions

under the jurisdiction of the commission. The fee is assessed at an amount equal to .05 percent of the annual tuition revenue generated in Florida.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

None.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The State Board of Education and the Commission for Independent Education may be required to amend any rules inconsistent with the provisions of this bill.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

Not applicable.

1 A bill to be entitled
 2 An act relating to independent postsecondary
 3 educational institutions; amending s. 1005.04, F.S.;
 4 requiring that certain institutions include specified
 5 information relating to student fees and costs in a
 6 disclosure to prospective students; creating s.
 7 1005.11, F.S.; requiring the Commission for
 8 Independent Education to annually prepare an
 9 accountability report by a specified date; requiring
 10 licensed institutions to annually provide certain data
 11 to the commission by a specified date and authorizing
 12 administrative fines for an institution that fails to
 13 timely submit the data; requiring placement rates to
 14 be determined using a specified methodology; requiring
 15 the commission to establish a common set of data
 16 definitions; requiring the commission to establish
 17 certain benchmarks by rule; providing for the
 18 designation of certain licensed institutions as "high
 19 performing"; amending s. 1005.21, F.S.; revising the
 20 commission's membership; limiting the terms of
 21 commission members; amending s. 1005.22, F.S.;
 22 requiring the commission to approve an annual budget;
 23 providing for the review of certain complaints
 24 concerning institutions or programs which are not
 25 closed within a specified time; authorizing the
 26 commission to prohibit the enrollment of new students,

27 or limit the number of students in a program at, a
 28 licensed institution under certain circumstances;
 29 amending s. 1005.31, F.S.; revising the commission's
 30 evaluation standards for licensure of an institution;
 31 requiring certain institutions to post a surety bond
 32 or similar financial security for specified purposes;
 33 requiring the commission to adopt rules; requiring the
 34 commission to examine an application for licensure and
 35 take certain actions within a specified period;
 36 amending s. 1005.32, F.S.; deleting a provision
 37 authorizing an institution that is a Florida
 38 corporation to apply for licensure by means of
 39 accreditation; requiring institutions granted
 40 licensure through accreditation to file a retention
 41 and completion management plan; amending s. 1005.36,
 42 F.S.; requiring the commission to create a Closed
 43 Institution Panel; providing membership and duties of
 44 the panel; providing that the panel's activities be
 45 conducted at the expense of certain institutions;
 46 amending s. 1005.37, F.S.; requiring the commission to
 47 annually determine fees to support the Student
 48 Protection Fund; providing that fees may not be
 49 collected under certain circumstances; amending s.
 50 1005.39, F.S.; requiring the commission to determine
 51 whether certain personnel of licensed institutions are
 52 qualified and require certain personnel to complete

53 continuing education and training; requiring the
 54 commission to annually verify that certain personnel
 55 have completed certain training by a specified date;
 56 authorizing continuing education to be provided by
 57 licensed institutions under certain circumstances;
 58 requiring certain evidence be included in initial or
 59 renewal application forms provided by the commission;
 60 providing an effective date.

61

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

63

64 Section 1. Paragraph (a) of subsection (1) of section
 65 1005.04, Florida Statutes, is amended to read:

66 1005.04 Fair consumer practices.—

67 (1) Every institution that is under the jurisdiction of
 68 the commission or is exempt from the jurisdiction or purview of
 69 the commission pursuant to s. 1005.06(1)(c) or (f) and that
 70 either directly or indirectly solicits for enrollment any
 71 student shall:

72 (a) Disclose to each prospective student a statement of
 73 the purpose of such institution, its educational programs and
 74 curricula, a description of its physical facilities, its status
 75 regarding licensure, its fee schedule, including all fees and
 76 costs that will be incurred by a student for completion of a
 77 program at the institution, and policies regarding retaining
 78 student fees if a student withdraws, and a statement regarding

79 the transferability of credits to and from other institutions.
 80 The institution shall make the required disclosures in writing
 81 at least 1 week prior to enrollment or collection of any tuition
 82 from the prospective student. The required disclosures may be
 83 made in the institution's current catalog;

84 Section 2. Section 1005.11, Florida Statutes, is created
 85 to read:

86 1005.11 Accountability for institutions licensed by the
 87 Commission for Independent Education.-

88 (1) By March 15 of each year, the commission shall prepare
 89 an annual accountability report for licensed institutions. The
 90 report must contain, at a minimum, the graduation rates,
 91 including the number of graduates by program, retention rates,
 92 and placement rates for all licensed institutions.

93 (2) By November 30 of each year, each licensed institution
 94 shall provide data to the commission in a format prescribed by
 95 the commission. Placement rates shall be determined using
 96 Florida Education and Training Placement Information Program
 97 methodology. The commission shall establish a common set of data
 98 definitions that are consistent with those used by the United
 99 States Department of Education for institutional reporting
 100 purposes.

101 (3) The commission shall impose an administrative fine of
 102 not more than \$1,000 when a licensed institution fails to timely
 103 submit the required data to the commission pursuant to this
 104 section. Administrative fines collected under this subsection

105 shall be deposited into the Student Protection Fund.

106 (4) The commission shall establish by rule performance
 107 benchmarks to identify high-performing institutions licensed by
 108 the commission. Licensed institutions with graduation rates,
 109 retention rates, and placement rates equal to or higher than the
 110 average rates of all Florida universities, colleges, or career
 111 centers, as appropriate, may receive and use the designation of
 112 "high performing."

113 Section 3. Paragraphs (c) and (d) of subsection (2) and
 114 subsection (3) of section 1005.21, Florida Statutes, are amended
 115 to read:

116 1005.21 Commission for Independent Education.—

117 (2) The Commission for Independent Education shall consist
 118 of seven members who are residents of this state. The commission
 119 shall function in matters concerning independent postsecondary
 120 educational institutions in consumer protection, program
 121 improvement, and licensure for institutions under its purview.
 122 The Governor shall appoint the members of the commission who are
 123 subject to confirmation by the Senate. The membership of the
 124 commission shall consist of:

125 (c) One member who is an employer of graduates of
 126 institutions licensed by the commission. The member may not have
 127 any other relationship with an institution subject to licensure
 128 by the commission except for his or her status as an employer of
 129 graduates of the institution ~~from a public school district or~~
 130 ~~Florida College System institution who is an administrator of~~

131 ~~career education.~~

132 (d) One member who is a graduate of an institution subject
 133 to licensure by the commission. The member may not have any
 134 other relationship with an institution subject to licensure by
 135 the commission except for his or her status as an alumnus
 136 ~~representative of a college that meets the criteria of s.~~
 137 ~~1005.06(1)(f).~~

138 (3) The members of the commission shall be appointed to 3-
 139 year terms. Members may serve no more than three consecutive
 140 terms or and until their successors are appointed and qualified,
 141 whichever occurs first. If a vacancy on the commission occurs
 142 before the expiration of a term, the Governor shall appoint a
 143 successor to serve the unexpired portion of the term.

144 Section 4. Paragraphs (e) and (k) of subsection (1) of
 145 section 1005.22, Florida Statutes, are amended, and paragraph
 146 (j) is added to subsection (2), to read:

147 1005.22 Powers and duties of commission.-

148 (1) The commission shall:

149 (e) Administer the provisions of this chapter. To this
 150 end, the commission has the following administrative powers and
 151 responsibilities:

152 1. The commission shall adopt rules pursuant to ss.
 153 120.536(1) and 120.54 for the operation and establishment of
 154 independent postsecondary educational institutions. The
 155 commission shall submit the rules to the State Board of
 156 Education for approval or disapproval. If the state board does

157 not act on a rule within 60 days after receiving it, the rule
 158 shall be filed immediately with the Department of State.

159 2. The commission shall approve and submit an annual
 160 budget to the State Board of Education.

161 3. The commission shall transmit all fees, donations, and
 162 other receipts of money to the Institutional Assessment Trust
 163 Fund.

164 4. The commission shall expend funds as necessary to
 165 assist in the application and enforcement of its powers and
 166 duties. The Chief Financial Officer shall pay out all moneys and
 167 funds as directed under this chapter upon vouchers approved by
 168 the Department of Education for all lawful purposes necessary to
 169 administering this chapter. The commission shall make annual
 170 reports to the State Board of Education showing in detail
 171 amounts received and all expenditures. The commission shall
 172 include in its annual report to the State Board of Education a
 173 statement of its major activities during the period covered by
 174 the report.

175 (k) Establish and publicize the procedures for receiving
 176 and responding to complaints from students, faculty, and others
 177 concerning institutions or programs under the purview of the
 178 commission, and keep records of such complaints in order to
 179 determine the frequency and nature of complaints with respect to
 180 specific institutions of higher education. Complaints not closed
 181 within 90 days shall be reviewed by a committee appointed by the
 182 commission.

183 (2) The commission may:

184 (j) Prohibit a licensed institution from enrolling new
 185 students, or limit the number of students in a program at a
 186 licensed institution, based on the institution's performance.

187 Section 5. Subsections (5) through (16) of section
 188 1005.31, Florida Statutes, are renumbered as subsections (6)
 189 through (17), respectively, subsection (2) and present
 190 subsection (6) are amended, and a new subsection (5) is added to
 191 that section, to read:

192 1005.31 Licensure of institutions.-

193 (2) The commission shall develop minimum standards by
 194 which to evaluate institutions for licensure. These standards
 195 must include, at a minimum, ~~at least~~ the institution's: name,
 196 financial stability, purpose, administrative organization,
 197 admissions and recruitment, educational programs and curricula,
 198 retention and, completion, including a retention and completion
 199 management plan, career placement, faculty, learning resources,
 200 student personnel services, physical plant and facilities,
 201 publications, and disclosure statements about the status of the
 202 institution with respect to professional certification and
 203 licensure. The commission may adopt rules to ensure that
 204 institutions licensed under this section meet these standards in
 205 ways that are appropriate to achieve the stated intent of this
 206 chapter, including provisions for nontraditional or distance
 207 education programs and delivery.

208 (5) The commission may require institutions that do not

209 provide sufficient evidence of financial stability at the time
 210 of application for a provisional license or that are dependent
 211 upon financial resources located outside of the United States to
 212 post and maintain a surety bond to assist each enrolled student
 213 in completing his or her program of enrollment in the event that
 214 the institution closes before receiving its first annual
 215 licensure renewal. In lieu of a surety bond, the commission may
 216 require an institution to establish and maintain a cash deposit
 217 escrow account or an irrevocable letter of credit payable to the
 218 commission in an amount not to exceed 50 percent of the
 219 institution's projected revenue for its first year. The
 220 commission shall adopt rules to implement this subsection.

221 (7) ~~(6)~~ The commission shall ensure through an
 222 investigative process that applicants for licensure meet the
 223 standards as defined in rule. Within 30 days after receipt of an
 224 application, the commission shall examine the application,
 225 notify the applicant of any apparent errors or omissions, and
 226 request any necessary additional information from the applicant.
 227 When the investigative process is not completed within the time
 228 set out in s. 120.60(1) and the commission has reason to believe
 229 that the applicant does not meet licensure standards, the
 230 commission or the executive director of the commission may issue
 231 a 90-day licensure delay, which shall be in writing and
 232 sufficient to notify the applicant of the reason for the delay.
 233 The provisions of this subsection shall control over any
 234 conflicting provisions of s. 120.60(1).

235 Section 6. Paragraph (e) of subsection (1) and subsection
 236 (3) of section 1005.32, Florida Statutes, are amended to read:

237 1005.32 Licensure by means of accreditation.—

238 (1) An independent postsecondary educational institution
 239 that meets the following criteria may apply for a license by
 240 means of accreditation from the commission:

241 ~~(e) The institution is a Florida corporation.~~

242 (3) The commission may not require an institution granted
 243 a license by means of accreditation to submit reports that
 244 differ from the reports required by its accrediting association,
 245 except that each institution must file with the commission an
 246 annual audit report and a retention and completion management
 247 plan pursuant to s. 1005.31. The institution must also follow
 248 the commission's requirements for orderly closing, including
 249 provisions for trainout or refunds and arranging for the proper
 250 disposition of student and institutional records.

251 Section 7. Subsections (3) and (4) of section 1005.36,
 252 Florida Statutes, are renumbered as subsections (4) and (5),
 253 respectively, and a new subsection (3) is added to that section
 254 to read:

255 1005.36 Institutional closings.—

256 (3) By October 1, 2016, the commission shall establish a
 257 Closed Institution Panel. The panel shall consist of at least
 258 one commission member, one commission staff member, one
 259 accrediting body staff member, and one administrator with
 260 experience managing licensed institutions. The commission shall

261 notify the panel upon the closing of a licensed institution. For
 262 any closure that does not comply with the requirements of
 263 subsection (2), or at the discretion of the commission chair,
 264 the panel shall convene to implement measures to minimize the
 265 academic, logistical, and financial impact on students of the
 266 institution. The panel is authorized to secure student records
 267 and, to the extent possible, maintain the educational programs
 268 at the institution for at least 30 days after it receives
 269 notification that the institution is closing to assist each
 270 student with completion of his or her educational program. The
 271 panel's activities shall be conducted at the expense of the
 272 institution that is closing.

273 Section 8. Section 1005.37, Florida Statutes, is amended
 274 to read:

275 1005.37 Student Protection Fund.—

276 (1) The commission shall establish and administer a
 277 statewide, fee-supported financial program through which funds
 278 will be available to complete the training of a student who
 279 enrolls in a licensed institution ~~nonpublic school~~ that
 280 terminates a program or ceases operation before the student has
 281 completed his or her program of study. The financial program is
 282 named the Student Protection Fund.

283 (2) The commission is authorized to assess a fee from the
 284 licensed institutions ~~schools~~ within its jurisdiction for such
 285 purpose. The commission shall assess a licensed institution
 286 ~~school~~ an additional fee for its eligibility for the Student

287 Protection Fund. Fees to support the fund shall be determined
 288 annually by the commission; however, if the fund balance exceeds
 289 \$5 million on November 1 of any year, the fees may not be
 290 collected in the next calendar year.

291 (3) If a licensed institution ~~school~~ terminates a program
 292 before all students complete it, the commission shall also
 293 assess that institution ~~school~~ a fee adequate to pay the full
 294 cost to the Student Protection Fund of completing the training
 295 of students.

296 (4) The fund shall consist entirely of fees assessed to
 297 licensed institutions ~~schools~~ and shall not be funded under any
 298 circumstances by public funds, nor shall the commission make
 299 payments or be obligated to make payments in excess of the
 300 assessments actually received from licensed institutions ~~schools~~
 301 and deposited in the Institutional Assessment Trust Fund to the
 302 credit of the Student Protection Fund.

303 (5) At each commission meeting, the commission shall
 304 consider the need for and shall make required assessments, shall
 305 review the collection status of unpaid assessments and take all
 306 necessary steps to collect them, and shall review all moneys in
 307 the fund and expenses incurred since the last reporting period.
 308 This review must include administrative expenses, moneys
 309 received, and payments made to students or to lending
 310 institutions.

311 (6) Staff of the commission must immediately inform the
 312 commission upon learning of the closing of a licensed

313 institution ~~school~~ or the termination of a program that could
 314 expose the fund to liability.

315 (7) The Student Protection Fund must be actuarially sound,
 316 periodically audited by the Auditor General in connection with
 317 his or her audit of the Department of Education, and reviewed to
 318 determine if additional fees must be charged to licensed
 319 institutions ~~schools~~ eligible to participate in the fund.

320 Section 9. Subsections (1), (3), and (4) of section
 321 1005.39, Florida Statutes, are amended to read:

322 1005.39 Continuing education and training for
 323 administrators and faculty.-

324 (1) The commission shall determine whether ~~is authorized~~
 325 ~~to ensure that~~ the administrators of licensed institutions are
 326 qualified to conduct the operations of their respective
 327 positions and ~~to~~ require such administrators and faculty to
 328 receive continuing education and training as adopted by rule of
 329 the commission. The positions for which the commission must ~~may~~
 330 review qualifications and require continuing education and
 331 training may include the positions of chief administrator or
 332 officer, chief campus officer, director of education or
 333 training, placement director, admissions director, and financial
 334 aid director and faculty members. By July 1, 2017, and annually
 335 thereafter, the commission must verify that all administrators
 336 subject to continuing education requirements have completed
 337 training on state and federal laws and regulations specifically
 338 pertaining to the operation of nonpublic postsecondary

339 institutions.

340 (3) The commission shall adopt general qualifications for
 341 each of the respective positions and establish guidelines for
 342 the minimum amount and type of continuing education and training
 343 to be required. The continuing education and training may be
 344 provided by the commission, appropriate state or federal
 345 agencies, or professional organizations familiar with the
 346 requirements of the particular administrative positions.

347 Continuing education may also be provided by licensed
 348 institutions upon approval of the commission. The actual
 349 curricula should be left to the discretion of those agencies,
 350 ~~and~~ organizations, and, if approved, licensed institutions.

351 (4) Evidence of administrator ~~the administrator's~~ and
 352 faculty ~~member's~~ compliance with the continuing education and
 353 training requirements established by the commission must ~~may~~ be
 354 included in the initial and renewal application forms provided
 355 to ~~by~~ the commission. Actual records of the continuing education
 356 and training received by administrators and faculty shall be
 357 maintained at the institution and available for inspection at
 358 all times.

359 Section 10. This act shall take effect July 1, 2016.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1311 Postsecondary Education Fees
SPONSOR(S): Rehwinkel Vasilinda
TIED BILLS: IDEN./SIM. **BILLS:** SB 1230

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Higher Education & Workforce Subcommittee		Cherry TC	Bishop HRB
2) Education Appropriations Subcommittee			
3) Education Committee			

SUMMARY ANALYSIS

The bill requires state universities to issue specified fee waivers to qualifying graduate students. The specified fees are:

- Financial aid fees as defined in section 1009.24(7), F.S.;
- Technology fees as defined in section 1009.24(13), F.S.;
- Fees for security, access, or identification cards as defined in section 1009.24(14)(c), F.S.; and
- Any fees or fines relating to the use, late return, and loss or damage of facilities and equipment as defined section 1009.24(14)(p), F.S.

Qualifying students include graduate students who have a 0.25, or greater, full-time equivalent appointment as a graduate assistant, graduate research assistant, graduate teaching assistant, graduate research associate, or graduate teaching associate.

For a fiscal analysis, see FISCAL COMMENTS, *infra*.

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

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

Florida Statute and Board of Governors Regulation 7.003 grants universities the discretion to assess financial aid fees, technology fees, access and transportation fees and fees or fines relating to the use, late return, and loss or damage of facilities and equipment.¹

Universities must use the revenue collected from these fees for specific purposes. For example, universities must direct a minimum of 75% of the student financial aid fee for use as financial aid based on absolute need.² The revenue from the technology fee is used to enhance instructional technology resources for students and faculty.³

For FY 2015-2016, state universities are authorized to charge specified fees per credit hour. The system averages for the following fees for graduate students are:

- Financial aid fee assessment of \$17.78;
- Technology fee assessment of \$13.44; and
- Access/transportation fee assessment of \$6.22.⁴

The assessment of fees or fines relating to the use, late return, and loss or damage of facilities and equipment are primarily contingent upon the actual use, late return, loss or damage of facilities and equipment by students; therefore, the actual assessment varies based on these individual circumstances.⁵

According to the Board of Governors, universities have the discretion to waive fees and fines.⁶

Effect of Proposed Changes

The bill requires state universities to issue specified fee waivers to qualifying graduate students. The specified fees are:

- Financial aid fees as defined in section 1009.24(7), F.S.;
- Technology fees as defined in section 1009.24(13), F.S.;
- Fees for security, access, or identification cards as defined in section 1009.24(14)(c), F.S.; and
- Any fees or fines relating to the use, late return, and loss or damage of facilities and equipment as defined section 1009.24(14)(p), F.S.

Qualifying students consist of graduate students who have a 0.25, or greater, full-time equivalent appointment as a graduate assistant, graduate research assistant, graduate teaching assistant, graduate research associate, or graduate teaching associate.

¹ See ss. 1009.24(7), 1009.24(13), 1009.24(14)(c), 1009.24(14)(r) and 1009.24(14)(p), F.S.

² Section 1009.24(7), F.S.

³ Section 1009.24(13), F.S.

⁴ Florida Board of Governors, 2016 Agency Legislative Bill Analysis for HB 925 (Jan. 28, 2016), at 1.

⁵ *Id.*

⁶ Florida Board of Governors Regulation 7.008 (last amended Sept. 3, 2015).

Based on data for fall 2015, graduate student appointments greater than or equal to 0.25 FTE totaled 5,528 FTE. These students accumulated 112,684 graduate student credit hours. Associated fees for 1 graduate FTE amount to approximately \$1,200 annually.⁷

The fee waivers may decrease financial assistance to students, see FISCAL COMMENTS, *infra*.

B. SECTION DIRECTORY:

Section 1. Amends s. 1009.26, F.S., relating to postsecondary education fee waivers.

Section 2. Provides an effective date of July 1, 2016.

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:

Tuition Revenue

The total 2015-2016 system average fee assessment for the financial aid fee, technology fee, and access fee is \$37.49 per student credit hour. Using the Florida definition of 32 credit hours per year (equal to 1 graduate FTE), the annual fee assessment would be \$1,200 per graduate FTE.

Based on fall 2015 enrollment, the fiscal impact to the state university system would be an estimated \$4.2 million reduction in tuition revenues per semester. The estimated fiscal impact excludes any additional fee assessments associated with fees or fines relating to the use, late return, and loss or damage of facilities and equipment.

Financial Aid

Of the 334,990 full-time and part-time students enrolled in the system, an estimated 141,000 students at the undergraduate and graduate levels of instruction have demonstrated some form of financial need, with 113,000 students receiving at least one need-based award from institutional support, federal

⁷ *Id.* at 2 and 3.

support, and state support. For institutional support alone, an estimated 42,000 students receive assistance from financial aid fee collections.⁸

Waiving the financial aid fee for an estimated 112,684 eligible graduate student credit hours could result in an estimated \$4 million annual reduction in available revenue for financial aid.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

None.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

Not applicable.

⁸ *Id.*

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A bill to be entitled
An act relating to postsecondary education fees;
amending s. 1009.26, F.S.; requiring state
universities to waive specified fees for certain
graduate students; providing an effective date.

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

Section 1. Subsection (14) is added to section 1009.26,
Florida Statutes, to read:

1009.26 Fee waivers.—

(14) Each state university shall waive financial aid fees as defined in s. 1009.24(7); technology fees as defined in s. 1009.24(13); fees for security, access, or identification cards as defined in s. 1009.24(14)(c); and any fees or fines relating to the use, late return, and loss or damage of facilities and equipment as defined in s. 1009.24(14)(p) for a graduate student who has a 0.25, or greater, full-time equivalent appointment as a graduate assistant, graduate research assistant, graduate teaching assistant, graduate research associate, or graduate teaching associate.

Section 2. This act shall take effect July 1, 2016.