

# SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based only on the provisions contained in the legislation as of the latest date listed below.)

BILL: CS/SB 2218

SPONSOR: Education Committee and Senator Diaz-Balart

SUBJECT: Postsecondary Education

DATE: April 10, 2000 REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>White</u>	<u>O'Farrell</u>	<u>ED</u>	<u>Favorable/CS</u>
2.	_____	_____	<u>GO</u>	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____

**I. Summary:**

Committee Substitute for Senate Bill 2218:

- ▶ Authorizes new or expanded workforce development education programs to be fully funded from the 85 percent “base funding,” without a factor for performance.
- ▶ Exempts from a required literacy test students in workforce development programs of fewer than 450 clock hours.
- ▶ Expands projects eligible for funding by the Workforce Development Capitalization Incentive Grant Program.
- ▶ Deletes a requirement that community colleges must publish a list of private providers of remediation.
- ▶ Provides independent rulemaking authority to the State Board of Community Colleges for the Florida Community College System and the Division of Community Colleges. The State Board of Education will continue its authority to approve or reject the rules after they are adopted.
- ▶ Authorizes the board to adopt in rule criteria for instructional sites.
- ▶ Aligns the state’s requirements with federal requirements for individuals who have disabilities. The changes apply to both the community college system and the state university system.

This bill amends the following sections of the Florida Statutes: 239.115, 239.213, 239.514, 240.1201, 240.152, 240.153, 240.311, 240.321, 240.325, 240.3341, 240.35, and 240.359.

**II. Present Situation:**

**Funding for Vocational Education:** s. 239.115, F.S.

At the postsecondary level, vocational education is called workforce development education and is funded by a performance-based formula. The formula is adopted annually by the Legislature based upon recommendations by the Department of Education. At least 15 percent of the funding must be allocated for performance in the form of program completions and placements of former

students in employment. New programs do not have completions and placements until they have been in operation for a year or more.

**Literacy Testing Requirement:** s. 239.213, F.S.

A student in a workforce development education program at the postsecondary level is not required to have a particular literacy level to enroll. However, each program has a literacy level associated with it, and students must attain that level before they are allowed to complete the program. This requirement is not realistic for students who are in very short programs, for students with disabilities, and for students in apprenticeship programs, which have admissions requirements.

**Workforce Development Capitalization Grant Program:** s. 239.514, F.S.

This program is a competitive grant program for providers of workforce development education who wish to start up or expand programs. The program was adopted along with the performance-based funding formula to encourage positive change. Under the formula, new programs do not generate funds for performance until students begin to complete them, so providers might stay with the same old programs just to keep funding level. This program was designed to enable school districts and community colleges to create new programs or expand good programs without an initial loss of funds.

**Private Providers of College Remediation:** s. 240.321, F.S.

Community colleges are required to inform students in need of remediation that private providers are available as well as the programs offered by the colleges. The list of providers is based on the provider's request to be included and is therefore incomplete and misleading.

**Fees to Improve Safety and Security on Community College Campuses:** s. 240.35, F.S.

The 1999 Legislature authorized community colleges to generate fee revenue for improvements in safety and security. The college may not raise fees above a range authorized by the Legislature, but any increases to the upper levels of that range must be used for safety and security purposes.

**Lifelong Learning Students:** s. 240.359, F.S.

In the late 1980s, community colleges generated funds based on "seat time" -- the more credit hours a student took, the more the college earned in state funds. The Legislature adopted a number of provisions to eliminate perceived abuses of this system, and the latest and most far reaching is performance-based funding.

One of the perceived abuses was based on a finding that some students were repeatedly taking the same course for personal benefit and not educational advancement. The most outrageous example was a student who took weight lifting 17 times while ostensibly pursuing an adult high school diploma. So the Legislature passed a law to prohibit state funding for a student who repeatedly takes the same course. That law requires such a student to be reported as a *lifelong learning* student, a category for which state funding is no longer authorized. Community colleges report that it is unnecessary and cumbersome to change the course category to report such students, since they no longer receive state funding for them.

**Rules of the Community College System**

The State Board of Education adopts rules for the Florida Community College System, the Division of Community Colleges, and the State Board of Community Colleges. The State Board of Community Colleges does not have independent rule-making authority, as does the State Board of Independent Colleges and Universities, for instance. It would be more efficient and would not change the ultimate responsibility if the State Board of Community Colleges adopted its own rules, subject to approval by the State Board of Education.

Recent changes in the Administrative Procedures Act (in ch. 99-379, L.O.F.), make it necessary for all promulgated rules to be supported by specific statutory rule-making authority. Agencies were given a period of 2 years to review rules and either repeal rules for which they had no specific authority or request rule authorization. The State Board of Community Colleges and every community college falls under the provisions of the Administrative Procedures Act. That is, each community college is bound by the same statutory requirements for the promulgation of rules as is the State Board of Education.

According to the findings of the Community College System's rule review as required by the amendments to ch. 120, F.S., only one rule remains that exceeds the existing rule-making authority. Rule 6H-1.040, F.A.C. Campus Center, Special Purpose Center and Instructional Site Designations requires more specific rule-making authority.

### **Students with Disabilities**

Section 504 of the Rehabilitation Act of 1973, as amended, prohibits discrimination on the basis of disability by public entities and recipients of federal assistance. Subtitle A of title II of the Americans with Disabilities Act of 1990, prohibits discrimination on the basis of disability by public entities. Title II of the ADA extends this prohibition of discrimination to include all services, programs, and activities provided or made available by State and local governments or any of their instrumentalities or agencies, regardless of the receipt of Federal financial assistance (28 CFR PART 35).

The ADA requires colleges and universities to assure that "no qualified individual with a disability" is excluded or subjected to discrimination because of the disability from the benefits of the institution (28 CFR 35). Both the ADA and Section 504 define "physical or mental impairment" to include visual impairments, hearing impairments, and speech impairments; mental or psychological disorders; and specific learning disabilities. (28 CFR 35)

Sections 240.152 and 240.153 of the Florida Statutes, dealing with reasonable substitutions in postsecondary education, are not as inclusive as federal law. The sections provide for reasonable substitutions for individuals with selected disabilities, but do not specifically mention speech impairments, physical impairments other than hearing impaired and visually impaired, or mental impairments.

### **III. Effect of Proposed Changes:**

#### **Funding for Vocational Education:** s. 239.115, F.S.

The Committee Substitute amends the Workforce Development Education Funding Formula to authorize "performance exemptions" for new or significantly expanded programs. The effect will

be that programs so identified will generate all of their funding from the “base” of 85 percent of the Workforce Development Fund and will be held harmless for completions and placements.

**Literacy Testing Requirement:** s. 239.213, F.S.

The bill amends this section to exempt certain postsecondary vocational students from a requirement to take a test of basic literacy upon entering a program and to pass it before completing the program. Exempt will be students in programs less than 450 clock hours in length, students with disabilities, and students in registered apprenticeship programs.

**Workforce Development Capitalization Grant Program:** s. 239.514, F.S.

The bill amends this law to allow institutions to compete for funds from the program to upgrade programs as well as to create and expand them.

**Private Providers of College Remediation:** s. 240.321, F.S.

Community colleges will no longer be required to publish a list of private providers of remediation.

**Fees to Improve Safety and Security on Community College Campuses:** s. 240.35, F.S.

The bill will require a community college to use certain fee revenues for additional safety and security purposes. The authorized revenue will be generated only if a college chooses to use its statutory authority to raise matriculation and tuition fees up to 15 percent above the fee schedule adopted by the State Board of Community Colleges. The restricted fee revenue is that generated by an increase of 10 percent to 15 percent over the schedule. If a college raises fees by any amount up to 10 percent over the minimum authorized in the schedule, the fee revenue will not be restricted to safety.

**Lifelong Learning Students:** s. 240.359, F.S.

The Committee Substitute deletes the requirement that community colleges must classify students as lifelong learning students if they take courses repeatedly. Instead, students who repeat a course more than twice will not be reported for state funding purposes, unless it is a credit course in which the student earned a grade of D or F.

**Rules of the Community College System**

The bill amends s. 240.311, F.S., to transfer rule-making authority from the State Board of Education to the State Board of Community Colleges. The State Board of Education will continue its authority to approve all rules adopted by the board. Authorized rules relate to minimum standards for community colleges and the Division of Community Colleges.

It adds the authority to adopt rules for additional community college instructional sites.

It amends Section 240.1201, F.S., to authorize the State Board of Education to adopt rules to classify students as residents or nonresidents for tuition purposes. The major classification is in law, so this amendment does not allow new categories of residents to be created except by law.

**Students with Disabilities**

The bill changes terminology from “impaired and learning disabled persons” to “individuals who have disabilities” and includes speech impaired and otherwise physically impaired people within

the protections afforded in s. 240.152, F.S., and s. 240.153, F.S. These statutes require appropriate substitutions for any requirement for admission to the institution, admission into a program of study or the upper division, or graduation from a state university or community college.

In addition, the bill amends Section 240.3341, F.S., to make permanent a 1-year permission for community colleges to lease incubator facilities for small business concerns.

**B. Public Records/Open Meetings Issues:**

None.

**C. Trust Funds Restrictions:**

None.

**V. Economic Impact and Fiscal Note:**

**A. Tax/Fee Issues:**

None.

**B. Private Sector Impact:**

None.

**C. Government Sector Impact:**

Community colleges and school districts may benefit from expanded use of the Capitalization Incentive Grant Program to upgrade programs. They will also benefit from the “performance exemptions” or hold-harmless from performance-based funding for new or significantly expanded programs. These changes do not constitute a fiscal impact because the grant program and the funding formula operate within the budget adopted annually by the Legislature. The programs with performance exemptions, for instance, will receive all of their funding from the 85 percent of the funds allocated for continuation, and none from the 15 percent allocated for performance. But the total amount in the fund will not increase.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Amendments:**

None.

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This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.

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