

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

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

BILL: CS/SB 1874

SPONSOR: Education Committee and Senator Sullivan

SUBJECT: Postsecondary Education/FACTS Work Products

DATE: April 20, 2001 REVISED: 4/24/01 _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>White</u>	<u>O'Farrell</u>	<u>ED</u>	<u>Favorable/CS</u>
2.	<u>Collins/McKee</u>	<u>Hickam</u>	<u>AED</u>	<u>Fav/1 amendment</u>
3.	_____	_____	<u>AP</u>	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

Under this Committee Substitute the Board of Regents and the State Board of Community Colleges may secure patents, trademarks, and copyrights on any work product developed as a result of developing the Florida Academic Counseling and Tracking System (FACTS). They may collect royalties or other consideration and use the proceeds for the costs associated with developing the products.

This bill creates an undesignated section of the Florida Statutes.

II. Present Situation:

Florida Academic Counseling and Tracking System (FACTS)

This multi-year project is a collaborative effort by the State Board of Community Colleges and the State University System. It responds to a law passed in 1995, s. 240.2099, F.S., which requires a “single, statewide computer-assisted advising system, which must be an integral part of the process of advising, registering, and certifying students for graduation.”

The system is being developed to provide Internet access to the following student service components:

- Academic Advising
- Admissions
- Career Resources
- Fee Transactions(s)
- Financial Aid
- Registration and Records
- General Student Services/Orientation

- Libraries

Individual components of the FACTS system are contractually assigned for development to various post-secondary institutions under a memorandum of understanding. The FACTS system has been under development for two years, and the initial functionality of all system components should be completed by September 2002. As each component completes the initial functionality test, a phased implementation process occurs for the 38 institutions. Full implementation of the initial functionality for all the components is not anticipated until 2003.

State Funding

In 1998 the Florida Distance Learning Network (FDLN) and the Board of Regents approved the plan and allocated \$6.9 million for the development and maintenance of the system. An additional \$4.654 million was appropriated in the 1998-1999 budget. In the 1999-2000 budget, \$4.654 million was allocated as recurring funding. The 2000-2001 appropriation, for \$4.654 million, recommended FACTS for special project monitoring as a critical information resource management project under s. 282.322, F.S. Including \$1 million in interest earnings, \$21.5 million has been provided since 1997-98 for development and implementation of FACTS.

Commercial Value

According to the March 27, 2001, quarterly assessment report from the consultant that conducts the special project monitoring, the components of the FACTS system are attracting market value:

“Efforts to create a marketable product from FACTS technology have proceeded rapidly this quarter, and have begun to see fruition in the Center’s¹ response to the Southern Regional Education Board (SREB) request for information. If the Center’s proposal is successful, a significant opportunity may open up for FACTS. With the 3800 member institutions of the SREB using FACTS technology, it could be poised to become a nationwide or even international technological standard . . .

Progress is also being made in investigations into the potential commercialization of FACTS technology. Under the current most likely scenario, a new private company would be formed outside of the Center that would work to further develop FACTS technology and manage its marketing out-of-state. The creation of such an entity could alleviate some of the burden of continuing to fund the project from the state, and could potentially be a source of revenue.”²

The report also recommends caution before pursuing the market options. This pursuit should not “abandon or in any way diminish the achievement of the project’s original intent: to provide a ‘single, statewide computer-assisted student advising system.’”³

Patents and Licensure

Section 240.229, F.S., authorizes state universities to sell or to “license, lease, assign, or otherwise give written consent to any person, firm, or corporation for the manufacture or use” of

¹ *Florida Center for Advising and Academic Support* at the University of South Florida. This center was created and funded by the FACTS appropriation.

² *Quarterly Assessment Report for the Florida Academic Counseling and Tracking for Students (FACTS) Project*, Sverdrup Technology, Inc. (March, 2001).

³ *Ibid.*

work products developed by universities. The community colleges do not have a similar authorization.

III. Effect of Proposed Changes:

The legislation under consideration authorizes the Board of Regents and the State Board of Community Colleges to secure patents, trademarks, and copyrights on any work product developed as a result of developing the FACTS system. The boards may enter into agreements with organizations, corporations, or other governmental entities for the use of the system and to collect royalties or other consideration. They may sell or license the products. All or some of the proceeds may be expended for the costs incurred in developing the system. Legislative leaders have 30 days in which to review and comment on any such agreement (Note: Amendment #1 adopted by the Appropriations Subcommittee on Education deletes this review and comment requirement and, instead, specifies that the final actions of the Board of Regents and State Board of Community Colleges are subject to the notice, review and objection procedure established in s. 216.177, F.S.)

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

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:

Private firms could benefit by being able to use the work products of the FACTS system for commercial interests.

C. Government Sector Impact:

Some of the cost of developing the FACTS system could be recovered by the authority to license, lease, or sell the work products developed for the FACTS system.

VI. Technical Deficiencies:

Committee Substitute for SB 1874 authorizes the Legislature to comment on the proposed agreement. It does not provide a remedy if the Legislature does not agree with the proposal. An amendment requiring the proposal to be subject to the Legislative Budget Commission review process in s. 216.177, F.S., would provide such remedy (Note: Amendment #1 adopted by the Appropriations Subcommittee on Education specifies that final action of the Board of Regents and the State Board of Community Colleges related to the agreement are subject to the notice, review and objection procedure established in s. 216.177, F.S.).

VII. Related Issues:

None.

VIII. Amendments:

#1 by Appropriations Subcommittee on Education
Specifies that final actions taken by the Board of Regents and the State Board of Community Colleges related to the FACTS agreement are subject to the notice, review and objection procedure established in s. 216.177, F.S.

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