

prevention and extinguishing of fires, the protection of life and property from fire, and the enforcement of fire prevention and control law.²

Death benefits must be paid as follows:

- \$25,000 when the officer or firefighter, while engaged in the performance of his or her duties, is accidentally killed or receives accidental bodily injury which results in the officer's or firefighter's death;
- \$50,000 when the accidental death occurs as a result of the officer's response to fresh pursuit or to what the officer reasonably believes to be an emergency, or as a result of the firefighter's response to what is reasonably believed to be an emergency involving the protection of life or property; or
- \$75,000 when the officer or firefighter, while engaged in the performance of his or her duties, is intentionally killed or dies as a result of an intentional act.³

Furthermore, in limited circumstances, payments for burial expenses and health insurance premiums of spouses and children are required.⁴

Finally, the children of an officer or firefighter may also be entitled to post-high school educational expenses.⁵ In order for this benefit to attach, the death must have occurred on or after: (a) June 22, 1990, and must have been the accidental result of the officer's response to fresh pursuit or to what the officer reasonably believed to be an emergency, or the accidental result of the firefighter's response to what he or she reasonably believed to be an emergency involving the protection of life or property; or (b) July 1, 1980, and must have been the result of an intentional act.⁶ If the conditions are met, the state is required to waive "tuition and matriculation and registration fees" for children of the officer or firefighter who pursue vocational-technical certificates and undergraduate educations at state institutions.⁷

"Tuition" is statutorily defined as the additional fee for instruction provided by a public postsecondary state educational institutions charged to non-Florida students.⁸ "Matriculation fee" is statutorily defined as the basic fee charged to a student for instruction provided by a postsecondary state educational institution.⁹ There is no statutory definition for the term "registration fees." Representatives from the State University System (SUS) have stated that in

² Section 112.191(b), F.S.

³ Sections 112.19(2) and 112.191(2), F.S.

⁴ Sections 112.19(2)(f)-(h) and 112.191(2)(f)-(h), F.S.

⁵ Sections 112.19(3) and 112.191(3), F.S.

⁶ Data from the Florida Department of Law Enforcement provides that 35 municipal, county, state and university officers have been accidentally killed in the line of duty since 1991, and 77 municipal, county, state and university officers have been intentionally killed in the line of duty since 1980. Data from the Department of Corrections provides that a total of two correctional and correctional probation officers have been accidentally killed in the line of duty since 1990, and four correctional and correctional probation officers have been intentionally killed since 1980. Data from the Fire Marshall's Office provides that 50 firefighters have been killed in the line of duty since 1980, with 19 of those deaths occurring since 1990. Information regarding the accidental or intentional nature of the firefighters' deaths was unavailable. This information is current as of January, 2001.

⁷ Section 112.19, F.S.

⁸ Section 228.041(33), F.S.

⁹ Section 228.041(32), F.S.

practice the term “registration fees” has been construed to include the following statutorily-authorized fees: (a) student financial aid;¹⁰ (b) building and Capital Improvement Trust Fund fees;¹¹ and (c) health, athletic, activity and service fees.¹²

These educational fee waivers are limited to a total of 120 credit hours and may only continue until the child is twenty-five years of age. Additionally, the child must be in good standing with the institution and comply with the institution’s discipline and scholarship requirements while in either a part- or full-time program.

III. Effect of Proposed Changes:

Section 1. The bill would expand the educational benefits currently available to the children of slain officers and firefighters by providing that the child’s tuition and other statutorily authorized fees would also be waived for graduate or postbaccalaureate professional degree programs at a state institution.¹³ As is currently required for the waiver of fees for vocational-technical and undergraduate studies, the child must be in good standing with the institution and comply with the institution’s discipline and scholarship requirements while in either a part- or full-time program. Distinguishably, unlike the requirements for waiver of fees for vocational-technical and undergraduate studies, the bill would limit the graduate and postbaccalaureate benefits to children who are state residents, as defined in s. 240.1201, F.S., and who are under the age of twenty-nine years. There is no state residency requirement for the vocational-technical and undergraduate benefits under current law, and the age limit for these benefits would remain twenty-five years old under the bill.

Additionally, the bill would substitute the term, “statutorily authorized fees,” for the term, “registration fees,” used throughout ss. 112.19 and 112.191, F.S. Current law does not define the term “registration fees;” however, in practice, according to representatives of the SUS, the term has been interpreted to mean other statutorily-authorized fees, i.e., student financial aid fees, building fees, Capital Improvement Trust Fund fees and health, athletic, activity and service fees. The bill’s use of the term “statutorily authorized fees” clarifies which fees are subject to waiver.

Section 2. The bill takes effect July 1, 2002.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

¹⁰ Section 240.209, F.S.

¹¹ Section 240.209, F.S.

¹² Section 240.235, F.S.

¹³ The terms “graduate” and “postbaccalaureate professional” study are not defined in the statutes; however, the Board of Regents’ rules indicate that “graduate” study means postbaccalaureate studies leading to nonprofessional school master degrees and doctorates, and that “postbaccalaureate professional” study means law, medical, dental, or veterinary school. *See* Rule 6C-6.003, F.A.C.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:**A. Tax/Fee Issues:**

The bill would eliminate the fees for graduate and postbaccalaureate professional study at state institutions for the children of slain public safety officers and firefighters.

B. Private Sector Impact:

None.

C. Government Sector Impact:

In FY 1999-2000, \$23,627 in educational fees were waived pursuant to ss. 112.19 and 112.191, F.S. Of this amount, \$7,489 was waived in the state community college system for 142 credit hours, and \$16,138 in the state university system (SUS) for 17 children.¹⁴ Fee waiver data for FY 1999-2000, is not yet available for the state vocational-technical school system; however, in FY 1998-1999, \$739 in vocational-technical fees were waived for 591 contact hours.

There will be a fiscal impact due to the bill's expansion of the educational benefits available for children of slain public safety officers and firefighters. The amount of the increase, however, is indeterminate as it is unknown how many eligible persons will take advantage of the graduate and postbaccalaureate fee waivers. A rough estimate of the potential increase can be calculated by using the aforementioned FY 1999-2000 fee waiver data from the community colleges and SUS.

According to this data, it appears that 22 students received undergraduate fee waivers in 1999-2000. For resident students, the average cost per year of full-time graduate study is approximately \$3,735, and of full-time professional school study is approximately \$8,617.¹⁵ If 22 students received graduate and/or professional school fee waivers, the cost of the bill could range from \$82,170 (this figure assumes 22 resident children attending graduate school) to \$189,574 (this figure assumes 22 resident children attending professional school).

¹⁴ The total number of children benefited in the community college system during FY 1999-2000, is not available; however, assuming that each student enrolled in the standard 30-hour per year schedule, it would appear that approximately five students benefited from the 142 hours waived.

¹⁵ The following sets forth the approximate average cost per year of professional studies for resident students as approved by the Board of Regents for 2000-2001: (a) law school fees are \$4,117; (b) medical school fees are \$11,602; (c) dental school fees are \$10,117; and (d) veterinary school fees are \$8,631.

VI. Technical Deficiencies:

The bill uses the phrase, “graduate and postbaccalaureate professional degree programs” interchangeably with the phrase, “postbaccalaureate or professional degree programs.” For consistency, only the phrase, “graduate and postbaccalaureate professional degree programs” should be used.

The bill states that the amount waived for the graduate and postbaccalaureate professional degree programs is limited to state residents; however, the bill includes tuition fees in the list of fees waived. Tuition is statutorily defined as the additional fee charged to a non-Florida resident. The matriculation fee is the basic fee charged to a Florida resident. Accordingly, the graduate and postbaccalaureate waiver should be limited to matriculation and other statutorily authorized fees.

VII. Related Issues:

The terms “tuition” and “matriculation” are defined by statute. “Tuition” means: “The additional fee for instruction provided by a public postsecondary educational institution in this state, which fee is charged to a non-Florida student as defined in rules of the State Board of Education, the State Board of Community Colleges, or the Board of Regents. A charge for any other purpose shall not be included within this fee.”¹⁶ “Matriculation” means: “The basic fee charged to a student for instruction provided by a public postsecondary educational institution in this state. A charge for any other purpose shall not be included within this fee.”¹⁷

The former Board of Regents’, now Florida Board of Education, rule providing a definition of “tuition” differs, however, from the statutory definition. Rule 6C-7.001, F.A.C., states that tuition means, “fees assessed to students for enrollment in credit courses at any of the state universities,” and further provides that these fees are: (a) matriculation fees; (b) student financial aid fees; (c) building and capital improvement trust fund fees; and (d) health, athletic, activity and service fees. Although these fees included in the rule’s definition of “tuition” are statutorily authorized to be charged by the universities, the rule’s definition does not conform to the statutory definition of “tuition.”

Pursuant to s. 120.536, F.S., all rules adopted by an agency must implement a specific law. Consequently, the definition of “tuition” contained in Rule 6C-7.001, F.A.C., may be subject to a ch. 120, F.S., rule challenge due to the fact that it contravenes the statutory definition of “tuition.” Staff recommends that the Florida Board of Education recommend to the State Board of Education that it either amend its rule to conform to statute or seek legislative amendments to the statutory definition of “tuition” to bring its rule into conformity.

VIII. Amendments:

#1 by Governmental Oversight and Productivity:

Deletes the term tuition from the list of fees to be waived for graduate and post-baccalaureate in-state students because tuition is a fee charged only to out-of-state students, and amends the section to insure consistent use of the term, “graduate and post-baccalaureate.”

¹⁶ Section 228.041(33), F.S.

¹⁷ Section 228.041(32), F.S.

#2 by Governmental Oversight and Productivity:

Deletes the term tuition from the list of fees to be waived for graduate and post-baccalaureate in-state students because tuition is a fee charged only to out-of-state students, and amends the section to insure consistent use of the term, “graduate and post-baccalaureate.”

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