

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: SB 36A

SPONSOR: Senator Constantine

SUBJECT: State Universities

DATE: May 14, 2003

REVISED: 05/15/03 _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Matthews</u>	<u>O'Farrell</u>	<u>ED</u>	<u>Fav/1 amendment</u>
2.	_____	_____	_____	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

This bill implements staggered terms for the Board of Governors as required by s. 7, Art. IX of the State Constitution.

The bill implements staggered terms and makes conforming changes to the membership of the university boards of trustees as required by s. 7, Art. IX of the State Constitution.

The bill authorizes a university board of trustees to establish a nonrefundable admissions deposit for undergraduate, graduate, and professional degree programs in an amount not to exceed \$200.

The bill limits the compensation of state university presidents from public funds to \$225,000.

The bill substantially amends ss. 1001.71, F.S., and 1009.24, F.S.

The bill creates ss. 1001.70, F.S., and 1012.975, F.S.

II. Present Situation:

Governance of the state universities

Prior to January 7, 2003, each state university was governed by a 13 member board of trustees. The Governor appointed 12 members to a university board with the student body president serving as the 13th member. The appointees were subject to Senate confirmation. Members were not required to be state residents, but the Governor was directed to consider diversity and regional representation in the appointments. Appointments were for 4-year staggered terms with a maximum service of eight years. Members could be removed by the Governor for cause or upon recommendation by the State Board of Education. Each board of trustees was responsible

for governing the university in accordance with law and rules of the State Board of Education. The State Board of Education exercised oversight authority over the state universities as a component part of the K-20 education system.

In the 2002 General Election, the people amended the State Constitution to create a Statewide Board of Governors to govern, operate, regulate, control, and be fully responsible for the management of the state university system. The responsibilities include defining university missions, defining articulation with public schools and community colleges, coordinating and operating the university system, and avoiding wasteful duplication of facilities or programs. In addition, the Board of Governors must establish the powers and duties of the university boards of trustees. The Board of Governors' management of the state university system is subject to the power of the Legislature to appropriate for the expenditure of funds. The Board of Governors must account for the expenditure of funds as provided by law.

The Board of Governors consists of 17 members: 14 members appointed by the Governor subject to confirmation by the Senate, the Commissioner of Education, the Chair of the Advisory Council of Faculty Senates or the equivalent, and the president of the Florida Student Association or the equivalent. The appointed members serve staggered terms of seven years as provided by law.

Local Boards of Trustees are created in the State Constitution to administer each public university. Each board of trustees consists of 13 members: six appointees by the Governor subject to confirmation by the Senate, five appointees by the Board of Governors subject to confirmation by the Senate, the chair of the faculty senate or the equivalent, and the president of the student body. The appointed members serve staggered terms of five years as provided by law.

The Governor has appointed the Board of Governors. The Governor and the Board of Governors have made their respective appointments to the new university boards of trustees. The Board of Governors met on January 7, 2003, and adopted, with some modifications, the provisions of law relating to state universities as resolutions of the Board of Governors.

University fees

Section 1009.24, F.S., provides for state university student fees. In addition to the mandated student activity and service fee, financial aid fee, capital improvement fee, health fee, and athletic fee, section 1009.24(12), F.S., authorizes a university board of trustees to establish certain optional fees. Specifically, a university board of trustees may assess a nonrefundable application fee in an amount up to \$30. The University of Florida may charge students in the College of Dentistry up to \$200 for an admissions fee. Currently, there is no statutory authorization for a nonrefundable admissions deposit fee for all undergraduate and graduate degree programs.

State university president salaries

Under the school code rewrite (chapter 2002-387, L.O.F.), a university board of trustees approves the annual compensation of a state university president. Annual compensation has dramatically increased within the past year. According to unverified survey data provided by the

state universities, the university boards of trustees have awarded annual compensation to their respective university presidents as follows:

University of Florida (36 percent increase in salary)

- \$350,000 current salary
- \$256,800 previous salary
- State-owned residence
- Two vehicles at \$12,590 (Foundation)
- \$36,477 annuities, deferred compensation, and retirement (Foundation)
- \$6,107 health insurance
- \$32,753 state retirement

University of South Florida (37 percent increase in salary)

- \$325,000 current salary (\$25,000 from Foundation)
- \$237,800 previous salary
- Donated vehicle, insurance (Foundation), mileage \$1,500
- \$6,107 health insurance
- \$33,865 state retirement
- Travel expenses for president and spouse not to exceed \$4000 (Foundation), club memberships (Foundation), prepaid tuition program for two children (non state funds), and financial/legal advisor not to exceed \$2,500 (Foundation)

University of Central Florida (42 percent increase in salary)

- \$295,000 current salary
- \$207,152 previous salary
- On-campus residence (Foundation)
- Leased vehicle \$8,950 (Foundation) and auto insurance \$1,055
- \$35,400 annuity plus FICA and Medicare Taxes \$3,221.44 (Foundation)
- \$6,641 for health insurance, \$660 for life insurance, and \$30,739 for state retirement
- Club membership \$1,720 (Foundation), club membership \$11,600 over 5 years (Foundation), golf membership \$6,368 (Foundation), physical (Foundation), and travel for spouse (Foundation)

Florida Atlantic University (51 percent increase in salary)

- \$290,000 current salary
- \$191,500 predecessor salary
- On-campus residence
- \$8,400 vehicle allowance (Foundation)
- \$7,918 health insurance
- \$16,704 state retirement
- \$1,523 short-term disability
- \$62 life insurance (Foundation)
- \$1,100 other
- Annual allowance for spouse travel (Foundation)

Florida State University (14 percent increase in salary)

- \$288,750 current salary
- \$254,098 predecessor salary
- \$48,000 housing allowance (Direct Support Organization)
- Vehicle plus all expenses (Direct Support Organization)
- \$6,107 health insurance
- \$26,305 state retirement
- \$1,158 life insurance
- \$43,313 annuities, deferred compensation, or other retirement (Direct Support Organization)
- Spousal travel, club memberships, and communication expenses (Direct Support Organization)

Florida International University (37 percent increase in salary)

- \$285,000 current salary
- \$207,000 previous salary
- On-campus residence
- \$5,000 vehicle allowance (Foundation)
- \$7,918 health insurance
- \$758 life insurance
- \$725 disability insurance
- \$34,400 annuities, deferred compensation, or other retirement

Florida Agricultural and Mechanical University (50 percent increase in salary) – (FAMU has not responded to survey)

- \$275,000 current salary
- \$183,000 predecessor salary

Florida Gulf Coast University (30 percent increase in salary)

- \$240,000 current salary
- \$184,705 previous salary
- Residence provided (Foundation)
- Vehicle provided \$10,790 last year (Foundation)
- \$7,918 health insurance
- \$14,413 state retirement
- \$851 life insurance
- \$1,260 disability insurance
- \$28,800 annuities, deferred compensation, or other retirement (Foundation)
- \$25,000 expenses (Foundation)
- \$4,000 spousal travel (Foundation)

University of West Florida (2.5 percent increase from previous salary)

- \$210,125 current salary

- \$205,000 previous salary
- \$20,000 residence allowance (Foundation)
- Vehicle provided (Foundation)
- \$3,500 spousal travel (Foundation)
- Annuity 12 percent of base salary (\$25,215 Foundation)

New College (14 percent increase in salary)

- \$175,000 current salary
- \$153,750 previous salary
- \$20,000 residence allowance (Foundation)
- \$5,000 vehicle allowance (Foundation)
- \$7,918 health insurance
- \$18,253 state retirement
- \$620 life insurance
- \$919 disability insurance
- \$21,000 annuities, deferred compensation, or other retirement (Foundation)
- Spousal travel \$4000 (Foundation), expenses \$10,000 (Foundation), and performance bonuses at an amount and fund source to be determined.

University of North Florida (2.5 percent increase in salary)

- \$169,125 current salary
- \$165,000 previous salary
- \$10,000 residence allowance
- Leased vehicle provided
- \$2,986 health insurance
- \$17,640 state retirement
- \$348 life insurance
- \$10,000 annuities, deferred compensation, or other retirement
- \$2,760 for memberships

Unless otherwise indicated through the designation of the terms “Foundation” or “Direct-Support Organization,” all obligations are funded through state dollars.

III. **Effect of Proposed Changes:**

Governance of the state universities

The bill provides staggered terms for the Board of Governors. Beginning July 1, 2003, four members are appointed to serve 2-year terms, five members are appointed to serve 3-year terms, and five members are appointed to serve 7-year terms.

The bill provides staggered terms for the university boards of trustees. The Governor’s six appointments to each university board of trustees, beginning July 1, 2003, shall be appointed to serve as follows: two members for 2-year terms, three members for 3-year terms, and one member for a 5-year term. The Board of Governors’ five appointments to each university board

of trustees, beginning July 1, 2003, shall be appointed to serve as follows: two members for 2-year terms, two members for 2-year terms, and one member for a 5-year term.

The bill eliminates the authority of the Governor to remove a member of the university board of trustees upon recommendation of the State Board of Education or for cause. A member of the university board of trustees is now a constitutional officer subject to removal for cause as provided in s. 7, Art. IV of the State Constitution. Member term-limits for university boards of trustees are also repealed.

University Fees

The bill authorizes a university board of trustees to establish a nonrefundable admissions deposit fee for all undergraduate and graduate degree programs in an amount not to exceed \$200. The fee must be assessed at the time of the student's acceptance and must be applied to the student's tuition upon enrollment. If the student does not enroll, the university keeps the admissions deposit fee and deposits the funds into an auxiliary account for financial aid, scholarships, financial assistance, or student academic and career counseling services. A university board of trustees that adopts the fee must adopt rules to provide for a waiver of the fee requirement for financial hardship.

The Department of Education estimates that the universities are expected to collect \$3.3 million in additional revenue assuming a \$200 admissions deposit fee. The assumption is based on 33 thousand new student acceptances generating \$6.6 million in deposit fees with 50 percent of those students failing to enroll. Moreover, a state university would benefit financially from the collection of the admissions deposit fee up front.

The admissions deposit may discourage the practice of certain students from accepting admissions to multiple institutions, thereby allowing the university to obtain a more accurate headcount for its incoming class.

State university president salaries

The bill caps the annual remuneration of state university presidents to \$225,000 from public funds. The bill defines the following terms for purposes of determining the cap:

- "Remuneration" is defined as salary, bonuses, and cash-equivalent compensation paid to a state university president by his employer for work performed, excluding health insurance benefits and retirement benefits.
- "Public funds" are defined as funds appropriated from the General Revenue Fund, funds appropriated from state trust funds, tuition and fees, or any funds from a state university trust fund regardless of repository.
- "Cash-equivalent compensation" is defined as any benefit that may be assigned equivalent cash value.

Currently, only three institutions satisfy the cap: University of West Florida, University of North Florida, and New College. New College would be subject to the cap through s. 1001.21(6), F.S., which defines New College, except as otherwise specifically provided, as a state university.

Payments and benefits received from a university foundation or a university direct-support organization would not be subject to the \$225,000 cap. A party may provide compensation to a state university president from nonpublic funds. However, the state may not assume any third party obligation to compensate university presidents if the third party fails in its obligation to make payment to a state university president.

The bill retains compensation, as that term is defined in s. 121.022(22), F.S., for purposes of calculating benefits under the Florida Retirement System (FRS). Section 121.022(22), F.S., specifically excludes bonuses and other payments received under a faculty practice plan in determining compensation under FRS.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. Constitutional Issues:

The bill retains the requirement that the Governor and the Board of Governors consider diversity and regional representation for appointments to the university boards of trustees. Although the requirement appears to be a limitation applicable to eligibility for serving on the board, this requirement could be constitutionally challenged as imposing additional qualifications for office. *See State v. Grassi*, 532 So.2d 1055, 1056 (Fla. 1988) *citing State ex. rel. Askew v. Thomas*, 293 So.2d 40, 42 (Fla. 1974) (statutes imposing additional qualifications for office are unconstitutional where the constitution provides those requirements); *compare Holley v. Adams*, 238 So.2d 401, 405 (Fla. 1970) (upholding resign to run law as an additional requirement on eligibility to be a candidate as opposed to qualification for office).

Section 7, Art. IX of the State Constitution establishes the Board of Governors with the responsibility of operating, regulating, controlling, and being fully responsible for the management of the state university system. In addition, the constitution directs the Board of Governors to establish the powers and duties of the university boards of trustees. Proponents of the amendment have articulated that the Board of Governors, alone, has the power to set tuition and fees. Accordingly, the bill may be constitutionally tested upon the nonrefundable admission deposit being assessed.

The bill does not provide that the remuneration shall apply only to new contracts or contracts extensions. To the extent that the state seeks to apply the salary cap to current contracts, there may be a constitutional challenge alleging violation of the contracts clause pursuant to section 1, Art. 10 of the State Constitution.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Students who accept admission into a state university would be required to pay a maximum deposit of \$200 to preserve their seat in a state university class unless they receive a financial hardship waiver.

To the extent that state university presidents are not compensated from public funds, private sector sources may be required to fund the compensation of university presidents to continue to attract qualified individuals.

C. Government Sector Impact:

The Department of Education has estimated that \$3.3 million in additional revenue would be generated by the admissions deposit fee.

The bill may provide a positive fiscal impact to state revenues by limiting state obligations to fund university president salaries.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Amendments:

#1 by Education:

The amendment makes conforming changes to law to ensure continued authority for the state universities to participate in certain state programs such as the pretax benefits program, deferred compensation, direct deposit of funds, consolidated equipment financing, and self-insurance for workers' compensation.

The amendment revises the criteria for determining residency for tuition purposes to require 12 months of state residency immediately prior to initial enrollment at an institution of higher

learning. It requires documentation such as permanent full-time employment or the purchase of a home in the state and residence for the prior 12 months for reclassification for tuition purposes.

The amendment recreates and amends the Florida Uniform Management of Institutional Funds Act to eliminate the requirement to freeze an endowment fund when the fund value falls below the original and subsequent gifts.

The amendment revises the Trust Fund for University Major Gifts by capping an annual gift at \$3 million for purposes of matching funds and capping a total gift at \$15 million for purposes of matching funds to be distributed in equal amounts of \$3 million per year over 5 years.

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