

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 7105 PCB SLC 08-04 Postsecondary Distance Learning

SPONSOR(S): Schools & Learning Council and Pickens

TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
Orig. Comm.: Schools & Learning Council	15 Y, 0 N	Merritt/Eggers	Cobb
1) Policy & Budget Council		Voyles	Hansen
2)			
3)			
4)			
5)			

SUMMARY ANALYSIS

HB 7105 establishes the Florida Distance Learning Consortium to advocate and facilitate access to distance learning resources that enable public postsecondary education institutions to fulfill their missions while contributing to and sharing in the distance learning resources of the Consortium. The Consortium is governed by a board with members appointed by the Governor subject to Senate confirmation.

The bill establishes the Florida Higher Education Distance Learning Catalog as an interactive, central point of access to distance learning courses, degree programs, and resources offered by public postsecondary education institutions and is intended to assist in the coordination and collaboration of articulation and access.

The bill authorizes community colleges and state university boards of trustees to establish a distance learning course user fee that may be assessed for courses listed in the Florida Higher Education Distance Learning Catalog.

The House General Appropriations Act for Fiscal Year 2008-09 (HB 5001) includes funding to support the Florida Distance Learning Consortium. Approximately \$349,000 is provided in Line Item 128 for distance learning. An estimated \$334,000 in additional funding is provided for the Consortium through the general revenue appropriations to the University of South Florida in Line Item 151. (See Fiscal Comments for more details.)

The effective date provided is July 1, 2008.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide Limited Government – HB 7105 establishes the Florida Distance Learning Consortium to advocate and facilitate access to distance learning resources that enable public postsecondary education institutions to fulfill their missions while contributing to and sharing in the distance learning resources of the consortium. The bill establishes the Florida Higher Education Distance Learning Catalog as an interactive, central point of access to distance learning courses, degree programs, and resources offered by public postsecondary education institutions and is intended to assist in the coordination and collaboration of articulation and access.

Ensure Lower Taxes – The bill authorizes community colleges and state university boards of trustees to establish a distance learning course fee that may be assessed for courses listed in the Florida Higher Education Distance Learning Catalog.

B. EFFECT OF PROPOSED CHANGES:

Background

This bill is the result of research completed by the Florida Legislature and Technology Review Workgroup in an effort to better understand how postsecondary distance learning policy and practices have changed over the years, and how such policies and practices have encouraged collaboration or increased access to postsecondary education.

Organization and Governance

In 1996, the State Board of Community Colleges (SBCC) established the Florida Community College Distance Learning Consortium (FCCDLC) as an advisory committee to the SBCC for purposes of:

- Advising the SBCC on policy and fiscal issues relating to distance learning and technology.
- Coordinating the establishment of a technology-enhanced delivery system that supports the mission of Florida's community colleges while also increasing access to higher education for all Florida residents.
- Representing the Community College System on regional and national committees.

Also in 1996, the Institute for Public Postsecondary Distance Learning was created by the Board of Regents (BOR) and the SBCC through a Memorandum of Understanding and was administratively assigned to Florida Gulf Coast University. The primary purpose of the Institute was to encourage and facilitate the cooperative development and delivery of distance learning instruction between the state universities and the community colleges. The Institute was governed by a board comprised of an equal number of community college and state university presidents.

In 1999, the BOR and the SBCC replaced the Institute with the Florida Virtual Campus (FVC). The FVC was designed to be a full-service, one-stop shopping source for statewide public postsecondary distance learning activities, courses, programs, and services. Its mission was to assist Florida's public postsecondary institutions in providing affordable access to quality distance learning and to facilitate a seamless distance learning experience for students.

Chapter 2002-387, LOF, created s. 1001.28, F.S., which assigned specific distance learning duties to the Department of Education, including the duty to “facilitate the implementation of a statewide coordinated system and resource system for cost-efficient advanced telecommunications services and distance education which will increase overall student access to education.”

In 2003, the governing bodies of the FCCDLC and the FVC consolidated the two entities to create the Florida Distance Learning Consortium (FDLC). The FDLC was designed to:

- Take on the responsibility for providing strong distance learning leadership for a K-20 educational delivery system.
- Exist as a membership organization open to any Florida accredited school district, community college, state university, or any Independent Colleges and Universities of Florida (ICUF) institution.
- Exist as an advisory body to the SBE in order to support the distance learning process at all educational levels and serve as a catalyst for greater collaboration and coordination.

While the FCCDLC and the FVC were informally consolidated in July 2003, neither the SBE nor the Board of Governors has taken official action to establish and formalize the FDLC. Since the FDLC has not been formally established within the state’s postsecondary educational structure to include the identification of clearly defined roles and responsibilities, institutional participation and use of the FDLC services and activities is voluntary.

Postsecondary Distance Learning Catalog

Given the proliferation of distance learning courses within the community college system, the FCCDLC decided students would benefit from having a single source of distance learning course information. In 1997, the FCCDLC developed the first system-wide online catalog listing the distance learning courses offered by Florida’s public community colleges. All participating community colleges entered their distance learning courses into the catalog and prospective students could search for the availability of distance learning courses by term, college, course number, or course prefix. Once a prospective student located a course of interest, the student would be linked to the appropriate college’s website for course registration and enrollment.

By 2002, the FVC had created a similar online distance learning course catalog for the state universities. When the governing bodies of the FVC and the FCCDLC decided to consolidate, the two online distance learning course catalogs were combined to create a single comprehensive postsecondary distance learning course and degree program catalog.

Currently, the FDLC hosts the online distance learning catalog and includes searchable information on distance learning courses and degree programs available from community colleges, state universities, and participating ICUF institutions. Based on a set of pre-determined data elements, each institution is responsible for entering and updating its own course and degree program information in the catalog. One data element that is not required and therefore not included in the catalog is the cost and/or fee of the distance learning course. Additionally, some of the course/degree program links are somewhat misleading because they connect the prospective students to sections of the offering institutions’ websites that have nothing to do with distance learning.

For 2006-2007, the FDLC reported that approximately 12,800 courses were listed in the catalog.¹ A Fall 2007 review of the 39 public postsecondary educational institutions’ websites showed that only 7 community colleges and 1 state university had links on their sites to the FDLC’s online distance

¹ Florida Distance Learning Consortium, PowerPoint Presentation, March 13, 2008.

learning catalog. Of these 8 sites, only 1 institution had placed the link along with its description on the section of its website dealing with distance learning; the other 7 institutions had placed the link under a “Helpful/Other Links” button which may not be easily found by a prospective student. Since the FDLC does not currently advertise the availability of the online distance learning catalog and only a limited number of postsecondary institutions provide a link/description about the catalog on their websites, it is unclear how students can find the catalog and access its courses.

Distance Learning Course Fee

Part II of chapter 1009 authorizes and establishes postsecondary student fees. These fees can be categorized into two broad categories: 1) general fees charged to all students, i.e., tuition, activity and service fee, financial aid fee, capital improvement fee, etc.; and 2) specific user fees for certain services charged only to those students receiving the service with the fee amount not exceeding the cost of the service, i.e., parking fee, laboratory fee, access or identification card fee, etc.

The overwhelming majority of postsecondary educational institutions charge some type of distance learning course fee; however, the amount of the fee varies depending upon the institution, the course level, the course subject matter, and resource requirements.² In the Community College System the distance learning course fee ranges from approximately \$5 to \$50 per 3-credit course, and in the State University System the distance learning course fee ranges from approximately \$25 to \$299 per 3-credit course.

Community Colleges

Section 1009.23(12), F.S., authorizes each community college board of trustees to establish a fee schedule for the statutorily-established user fees and fines listed in this subsection. Additionally, this subsection states that “a community college may not charge any fee except as authorized by law or rules of the State Board of Education.” Section 1001.02(6)(e), F.S., authorizes the SBE to establish rules for the purpose of implementing statutorily-established requirements for student admissions, conduct and discipline, non-classroom activities, and fees. This rule authority, however, is for the purpose of implementing or interpreting the statutorily-established fees; it does not authorize the creation of new ones.

In establishing a fee for distance learning courses, it appears the phrase “or rules of the State Board of Education” has been interpreted to mean that the SBE has the power to expand upon the list of user fees and fines authorized in s. 1009.23(12), F.S., through the promulgation of a rule. The Division of Community Colleges cites rule 6A-14.054(6), F.A.C., as its authority for the assessment of a distance learning course fee. This rule states that “each board of trustees may establish user fees in addition to tuition fees for services that incur unusual costs. Such user fees will not exceed the cost of the goods or services provided and will only be charged to students or agencies receiving those goods or services.” Section 1009.23(12), F.S., is cited as the authority for this rule. While this section of statute establishes and authorizes certain user fees and fines within the community college system, a distance learning course fee is not specified.

State Universities

Section 1009.24(13), F.S., provides authority for each board of trustees to establish a “fee for off-campus course offerings when the location results in specific, identifiable increased costs to the

² During 2007 a review of all 39 public postsecondary educational institutions’ websites were reviewed to identify if the institution charged a distance learning course fee and, if charged, at what amount.

university.” The State University System cites this section of statute and rule 6C-7.003 F.A.C., as its authority for the assessment of a distance learning course fee. While it appears that this section of statute was originally intended for traditional classroom-type teaching done at an off-campus site, the university boards of trustees have expanded its applicability to include courses offered through distance learning.

Effect of Proposed Changes

Florida Distance Learning Consortium

The bill establishes the Florida Distance Learning Consortium (Consortium) as an adjunct to the Department of Education; however, the Consortium is not subject to control, supervision, or direction by the department. The Consortium will contract with the department or a public postsecondary education institution for the provision of administrative services to include, but not be limited to, payroll, procurement, and legal counsel.

The Consortium is governed by a board comprised of nine members who are appointed, in 4-year staggered terms, by the Governor and subject to confirmation by the Senate. The membership of the board will consist of:

- Four members from the State University System
 - o One member being a state university president;
 - o One member having experience in academic affairs or student affairs;
 - o One member having experience in finance or business services; and,
 - o One member being from the Chancellor’s Office of the Board of Governors and having experience in distance learning education.
- Four members from the community college system
 - o One member being a community college president;
 - o One member having experience in academic affairs or student affairs;
 - o One member having experience in finance or business services; and,
 - o One member being from the Chancellor’s Office of the Division of Community Colleges and having experience in distance learning education.
- One member who is a private citizen having experience in distance learning education.

The board will appoint a chair and vice chair from among its members to 1-year terms. The board will also appoint an executive director who will serve at the pleasure of the board. Membership of the board will serve without compensation, but are entitled to be reimbursed for per diem and travel expenses.

The board will establish procedures governing its operations and the completion of its responsibilities. These procedures will comply with the requirements of s. 20.052, F.S. This section of law requires, inter alia, the following:

- The Legislature and the public must be kept informed of the numbers, purposes, memberships, activities, and expenses of certain collegial bodies.
- All meetings of the collegial body are public meeting under s. 286.011, F.S., with minutes and a record of all votes cast being maintained for all meetings.
- The collegial body must be terminated by the Legislature when it is no longer necessary or beneficial to the furtherance of public purpose. If this body is abolished its records must be

appropriately stored, within 30 days after the effective date of its abolition, by the executive agency to which it was adjunct, and any property assigned to it must be reclaimed by the executive agency. The body must not perform any activities after the effective date of its abolition.³

The board will also establish standing committees or work groups comprised of faculty, professional staff, and distance learning students from the postsecondary educational system. The board will meet at least two times each year. A majority of the board members constitutes a quorum and the affirmative vote of a majority of the quorum is necessary to take action.

The bill authorizes a type two transfer of all duties, functions, records, personnel, and property; unexpended balances of appropriations, allocations, and other funds; pending issues; and existing contracts of the Florida Community College Distance Learning Consortium and the Florida Virtual Campus to the Florida Distance Learning Consortium.

The Consortium will have the following duties:

- Develop, operate, and promote the Florida Higher Education Distance Learning Catalog to help increase student access to distance learning courses and degree programs and, in particular, access for students seeking accelerated completion of their degrees.
- Serve as a central content repository for instructional resources that can be used by faculty in their development, evaluation, and enhancement of distance learning courses and degree programs.
- Assess, in collaboration with public postsecondary education institutions, the potential use of distance learning as a means to address critical educational needs of the state.
- Coordinate the evaluation and promotion of new and proven instructional methods, emerging technologies, and quality distance learning courses and degree programs.
- Coordinate and support educational programs and other training opportunities for faculty and professional staff in developing, evaluating, and enhancing distance learning courses and degree programs.
- Coordinate on behalf of participating public postsecondary education institutions the negotiation of statewide licensing and pricing agreements for distance learning resources and enter into agreements with distance learning resource providers that will result in cost savings for the participating institutions.
- Assist in building partnerships among educational institutions, businesses, and communities.

The Consortium, in collaboration with public postsecondary education institutions, will also be required, to:

- Recommend the definition of a distance learning course.
- Recommend revenue-sharing models for distance learning fee revenues generated when a student enrolls in a distance learning course that is offered by a public postsecondary education institution that is not the student's degree-granting or home institution.
- Recommend a plan for developing and implementing an on-line system that streamlines and automates the registration process for students who have been admitted to a public postsecondary education institution and who want to enroll in a course or courses listed in the Florida Higher Education Distance Learning Catalog. The Consortium will work in partnership with the institutions to identify and address the applicable administrative, program, and technical issues and protocols necessary to ensure that the implementation of

³ See s. 20.052, F.S.

such a system as an alternative to the standard registration process of each institution complies with the academic policies and procedures of the institution offering the course. At a minimum, the system should:

- Allow a qualified student to register for any course listed in the catalog, including courses offered by an institution that is not the student's degree-granting or home institution.
- Allow for the expedited transfer of the distance learning course credit awarded by the institution offering the distance learning course to the student's degree-granting or home institution upon the student's successful completion of the distance learning course or courses.
- Be accessible from the catalog.
- Comply with all applicable technology security standards and guidelines established by the Agency for Enterprise Information Technology to ensure the secure transmission of student information.

The Consortium will be required to submit these recommendations to the Governor, the President of the Senate, the Speaker of the House of Representatives, the State Board of Education (SBE), and the Board of Governors (BOG) no later than March 1, 2009.

The Consortium will annually submit to the Governor, the President of the Senate, and the Speaker of the House of Representatives, the SBE, and the BOG a detailed report that includes, but is not limited to:

- An operational plan that summarizes the activities and accomplishments of the Consortium, identifies opportunities for partnerships, and recommends methods that will improve student access to and completion of distance learning courses and degree programs.
- Recommended policies that address ways to increase the access to and cost-effectiveness in the development and delivery of, distance learning courses and degree programs. These recommendations will consider the cost variations that exist within the delivery systems and identify the best practices that minimize costs of the development and delivery of distance learning courses while enhancing the effectiveness of instruction.
- Recommendations regarding an accountability mechanism to assess the effectiveness of the services provided by the Consortium.
- A detailed summary and analysis of the data collected by the Florida Higher Education Distance Learning Catalog.

Florida Higher Education Distance Learning Catalog

The bill establishes the Florida Higher Education Distance Learning Catalog as an interactive, central point of access to distance learning courses, degree programs, and resources offered by public postsecondary education institutions and is intended to assist in the coordination and collaboration of articulation and access.

The Florida Distance Learning Consortium will be responsible for the catalog and will establish its operational guidelines and procedures, which will include, but is not limited to:

- Requiring participating institutions to be responsible for providing clear, complete, and timely information on the distance learning course and degree program requirements; type of technology and technical equipment requirements; any prerequisite courses or technology competencies and skills; availability of academic support services; identification of financial aid resources; and all cost, fee, and payment information policies.

- Requiring that all distance learning courses and degree programs meet all applicable and appropriate accreditation standards and criteria.
- Requiring that, at a minimum, the catalog is reviewed at the start of each academic semester to ensure that all distance learning courses and degree programs comply with the operational guidelines and procedures established by the governing board of the consortium.

The catalog will include a web-based analytic tool that allows for the collection and analysis of data to include:

- The number and type of students who use the catalog to search for distance learning courses and degree programs.
- The number and type of requests for information on distance learning courses and degree programs not listed in the catalog.
- A comparison of distance learning course and degree program cost data.
- A summary of specific requests by course type or course number, delivery method, offering institution, and semester.
- Other types of data as determined by the Consortium.

Community College Student Fees

The bill authorizes each community college to assess a student who enrolls in a course listed in the Florida Higher Education Distance Learning Catalog a per-credit-hour distance learning course user fee. The amount of the distance learning course user fee will not exceed the additional costs of the services provided that are attributable exclusively to the development and delivery of the distance learning course or program. The community college may only assess the distance learning course fee for courses that are listed in the Florida Higher Education Distance Learning Catalog, and may not assess any other fees to cover the same costs. The community college is required to prominently display the link for the catalog on its website, informing students of the catalog.

By September 1 of each year, each board of trustees will report to the Division of Community Colleges the total amount of revenue generated by the distance learning course user fee for the prior academic year and how the revenue was expended.

The bill clarifies the authority of the State Board of Education to adopt rules to administer the provisions of s. 1009.23(12), F.S.

State University Student Fees

The bill authorizes each state university board of trustees to assess a student who enrolls in a course listed in the Florida Higher Education Distance Learning Catalog a per-credit-hour distance learning course user fee. The amount of the distance learning course user fee will not exceed the additional costs of the services provided that are attributable exclusively to the development and delivery of the distance learning course or program. The state university may only assess the distance learning course fee for courses that are listed in the catalog, and may not assess any other fees to cover the same costs. The state university is required to prominently display the link for the catalog on its website, informing students of the catalog.

By September 1 of each year, each board of trustees will report to the Board of Governors the total amount of revenue generated by the distance learning course user fee for the prior academic year and how the revenue was expended.

C. SECTION DIRECTORY:

- Section 1. Creates s. 1004.09, F.S., establishing the Florida Distance Learning Consortium; requiring the consortium to contract with the Department of Education or a public postsecondary education institution for certain administrative services; providing for a type two transfer of certain duties, records, personnel, property, unexpended funds, and contracts to the consortium; requiring the consortium to be governed by a board and providing membership and terms thereof; providing for the reimbursement of per diem and travel expenses; requiring the board to establish procedures governing its operations and responsibilities; providing for the appointment of an executive director; providing consortium duties and responsibilities; requiring a report and specifying information be included in such report; providing for future expiration of provisions relating to certain duties of the consortium.
- Section 2. Creates s. 1004.091, F.S., establishing the Florida Higher Education Distance Learning Catalog; requiring the consortium to be responsible for the catalog and to establish operational guidelines and procedures; requiring that the catalog include a tool for data analysis.
- Section 3. Amends s. 1009.23, F.S., revising provisions relating to community college student fees; authorizing the State Board of Education to adopt rules; authorizing a community college to assess a per credit hour distance learning course user fee; requiring an annual report; requiring the community college to assess the fee only for courses listed in the catalog; requiring a website link to the catalog on the institution's website.
- Section 4. Amends s. 1009.24, F.S., revising provisions relating to state university student fees; authorizing a state university to assess a per credit hour distance learning course user fee; requiring an annual report; requiring the state university to assess the fee only for courses listed in the catalog; requiring a website link to the catalog on the institution's website.
- Section 5. Provides an effective date of July 1, 2008.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

See Fiscal Comments.

2. Expenditures:

See Fiscal Comments.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

See Fiscal Comments.

2. Expenditures:

See Fiscal Comments.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

D. FISCAL COMMENTS:

Florida Distance Learning Consortium and Online Course Catalog

The House General Appropriations Act for Fiscal Year 2008-09 (HB 5001) includes funding to support the Florida Distance Learning Consortium. Approximately \$349,000 is provided in Line Item 128 for distance learning. These funds will be allocated to the Consortium by the Department of Education. Additional funding is provided for the Consortium through the general revenue appropriations to the University of South Florida in Line Item 151. The estimated amount that the university will allocate to the Consortium in Fiscal Year 2008-09 is approximately \$334,000.⁴

Distance Learning Fee

The bill authorizes community colleges and state universities to assess a fee for distance learning courses that are included in the online course catalog. Currently, most of the community colleges and state universities are charging fees for distance learning courses; however, data on the revenues generated by these fees is not currently collected by the state.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill does not appear to require a city or county to expend funds or to take any action requiring the expenditure of funds.

The bill does not appear to reduce the authority that municipalities or counties have to raise revenues in the aggregate.

This bill does not appear to reduce the percentage of state tax shared with counties or municipalities.

⁴ Estimate provided by the Board of Governors on April 10, 2008.

2. Other:

B. RULE-MAKING AUTHORITY:

C. DRAFTING ISSUES OR OTHER COMMENTS:

D. STATEMENT OF THE SPONSOR

IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES