

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 315 Florida Prepaid College Program

SPONSOR(S): Van Zant and others

TIED BILLS: IDEN./SIM. BILLS: SB 606

Table with 4 columns: REFERENCE, ACTION, ANALYST, STAFF DIRECTOR. Row 1: State Universities & Private Colleges Policy Committee, Thomas, Tilton.

SUMMARY ANALYSIS

The State of Florida offers the Stanley G. Tate Florida Prepaid College Plan (Prepaid Plan) and the Florida College Investment Plan (Investment Plan) to assist families in planning and saving for a college education.

Current law permits Investment Plans to be used at any "eligible education institution" and defines "eligible education institution" as an institution of higher education that qualifies under s. 529 of the Internal Revenue Code as an eligible educational institution.

Use of the Prepaid Plan is more limited. The Prepaid Plan may be used at any of the 11 institutions in the State University System or 28 institutions in the Florida College System.

- An independent college or university that is located and chartered in Florida, is accredited by the Southern Association of Colleges and Schools or the Accrediting Council for Independent Colleges and Schools, and confers degrees;
Any out-of-state college or university that confers degrees, is not-for-profit, and is accredited by a regional accrediting association; and
An applied technology diploma program or career certificate program operated by a Florida community college or a career center operated by a district school board.

HB 315 permits the use of a Prepaid Plan at a broader range of institutions. The bill permits beneficiaries of advanced payment contracts to transfer the benefits of an advance payment contract to an "eligible education institution as defined in s. 529 of the Internal Revenue Code."

This bill does not appear to have a fiscal impact on state government.

The effective date of this act is July 1, 2009.

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

STORAGE NAME: h0315.SPCP.doc
DATE: 2/16/2009

HOUSE PRINCIPLES

Members are encouraged to evaluate proposed legislation in light of the following guiding principles of the House of Representatives

- Balance the state budget.
- Create a legal and regulatory environment that fosters economic growth and job creation.
- Lower the tax burden on families and businesses.
- Reverse or restrain the growth of government.
- Promote public safety.
- Promote educational accountability, excellence, and choice.
- Foster respect for the family and for innocent human life.
- Protect Florida's natural beauty.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

Florida Prepaid College Plan

The State of Florida offers the Stanley G. Tate Florida Prepaid College Plan (Prepaid Plan) and the Florida College Investment Plan (Investment Plan) to assist families in planning and saving for a college education.¹ The Prepaid Plan contracts lock in many of the costs associated with postsecondary attendance at the time the contracts are purchased. These costs depend on the type of plan purchased and may include registration fees, local fees, the tuition differential fee, and dormitory expenses.² The Investment Plan allows anyone who is at least 18 years old to open an investment account to be used for qualified higher education expenses at an eligible education institution.³

Current law permits the Investment Plans to be used at any "eligible education institution" and defines "eligible education institution" as an institution of higher education that qualifies under s. 529 of the Internal Revenue Code as an eligible educational institution. Section 529 of the Internal Revenue Code defines an "eligible educational institution" as a postsecondary educational institution eligible to participate in federal student financial aid programs under the federal Higher Education Act of 1965, such as the Pell Grant Program and federal student loan programs.⁴

Use of the Prepaid Plan is more limited. The Prepaid Plan may be used at any of the 11 institutions in the State University System or 28 institutions in the Florida College System. Prepaid plans may also be used at the following institutions:⁵

- An independent college or university that is located and chartered in Florida, is accredited by the Southern Association of Colleges and Schools or the Accrediting Council for Independent Colleges and Schools, and confers degrees;

¹ Section 1009.98(1), F.S.; Section 1009.981(1)(a), F.S.

² Section 1009.98(1), F.S.; <http://www.myfloridaprepaid.com/Plans/FAQ/> (last visited March 3, 2009).

³ <http://www.myfloridaprepaid.com/Plans/FAQ/> (last visited November 25, 2008); Florida College Investment Plan, Disclosure Statement, 11 (April 1, 2008), available at http://www.myfloridaprepaid.com/disclosure_statement/ (last visited March 5, 2009).

⁴ 26 USCA s. 529(5) (2006); Section 1009.97(3)(k), F.S.

⁵ Section 1009.98(3)(a), F.S.

- Any out-of-state college or university that confers degrees, is not-for-profit, and is accredited by a regional accrediting association; and
- An applied technology diploma program or career certificate program operated by a Florida community college or a career center operated by a district school board.

If a student attends an eligible private or out-of-state institution, Florida Prepaid will transfer to that institution an amount not to exceed the redemption value of the contract at a state postsecondary institution.⁶

Currently, any advertisement disseminated by an eligible for-profit **independent** college or university that references the Prepaid Plan must state that the Florida Prepaid College Board does not endorse any particular college or university.⁷

529 Plans

Section 529 of the Internal Revenue Code, exempts the contributor and the beneficiary of a qualified tuition program from the payment of federal income tax on the funds contributed to or disbursed from the program.⁸ These programs, popularly known as 529 plans, are established by a state or eligible education institution. There are two types of 529 plans: college savings plans and prepaid plans. The Florida Prepaid College Plan is a prepaid tuition 529 plan. Under the federal law, an “eligible educational institution” is a postsecondary educational institution eligible to participate in federal student financial aid programs under the federal Higher Education Act of 1965, such as the Pell Grant Program and federal student loan programs. Thus, the federal law would permit a beneficiary of a 529 plan to transfer the benefits of the plan to a broader range of institutions than would Florida’s Prepaid College Plan.

Effect of Proposed Changes

HB 315 permits the use of a Prepaid Plan at a broader range of institutions. The bill permits beneficiaries of advanced payment contracts to transfer the benefits of advanced payment contracts to an “eligible education institution as defined in s. 529 of the Internal Revenue Code.” Section 529 of the Internal Revenue Code defines an “eligible educational institution” as a postsecondary educational institution eligible to participate in federal student financial aid programs under the federal Higher Education Act of 1965, such as the Pell Grant Program and federal student loan programs.⁹

The bill requires that any advertisement disseminated by an eligible for-profit college or university that references the Prepaid Plan must state that the Florida Prepaid College Board does not endorse any particular college or university.

B. SECTION DIRECTORY:

- Section 1. Amends s. 1009.98, F.S., revising provisions relating to the transfer of benefits received from the Florida Prepaid College Program to private and out-of-state colleges and universities and to career centers.
- Section 2. Amends s. 744.1093, F.S., relating to professional guardians; conforming a cross-reference.
- Section 3. Provides an effective date of July 1, 2009.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

⁶ Section 1009.98(3), F.S.

⁷ Section 1009.98(3)(a), F.S.

⁸ 26 USC s. 529(c) (2006)

⁹ Section 1009.97(3)(k), F.S.

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None

2. Expenditures:

None

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None

2. Expenditures:

None

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

D. FISCAL COMMENTS:

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.

2. Other:

B. RULE-MAKING AUTHORITY:

C. DRAFTING ISSUES OR OTHER COMMENTS:

Lines 51 – 56 require any advertisement disseminated by a for-profit college or university that references the Florida Prepaid Program to include a statement that the Prepaid Program does not endorse any particular college or university. Under the provisions of the bill, the Prepaid Plan may be used at for-profit educational institutions that do not grant degrees. Replacing the phrase “college or university” with “educational institution” could cover the additional institutions.

IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES