

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

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

Prepared By: The Professional Staff of the Higher Education Appropriations Committee

**BILL:** CS/SB 1696

**INTRODUCER:** Higher Education Appropriations Committee and Senator Lynn

**SUBJECT:** Higher Education Funding

**DATE:** April 1, 2009                      **REVISED:** \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Bryant	Hamon	HI	Fav/CS
2.			GO	
3.			WPSC	
4.				
5.				
6.				

**Please see Section VIII. for Additional Information:**

A. COMMITTEE SUBSTITUTE.....  Statement of Substantial Changes

B. AMENDMENTS.....  Technical amendments were recommended

Amendments were recommended

Significant amendments were recommended

**I. Summary:**

The bill makes the following changes to higher education funding statutes:

- Bright Futures –
  - Requires a refund of funds received for courses dropped by students after the end of the drop and add period.
  - Revises credit hour requirements for full-time students.
  - Removes college-related-expense awards for Academic Scholars.
  - Prohibits conversion of Gold Seal Awards to Medallion Awards.
- Florida Prepaid College Plans –
  - Establishes set per year payments from Florida Prepaid College Program to State Universities within a reasonable range.
  - Authorizes new plans with incremental credit hour purchases.
- State University Excess Hours – Requires a 50% tuition surcharge after 120% of required credit hours for resident students.
- Postsecondary Education Residency Requirements– Modifies standards for converting to resident status for tuition purposes.

- State University Graduate Tuition Rate – Authorizes up to 15% annual adjustments to match professional tuition flexibility already authorized.
- Higher Education Challenge Grants –
  - Requires notice of state match delay for Community College and State University Facilities and Operating Challenge Grant Donations.
  - Allows Community Colleges and Universities to spend existing donations for facilities projects; however the projects cannot be submitted for state support for operations until the state match has been provided.
- Community College Baccalaureate Programs –
  - Temporarily suspends the establishment of new programs.
  - Modifies the state support and tuition language to be as provided in the General Appropriations Act.
  - Requires Board of Governors (BOG) review of a Community College for possible transfer to BOG oversight when the number of BA degree programs offered exceeds twenty-five degrees.
- Clarifies current practice for scholarship programs by removing specific dollar amounts from certain scholarship programs (Critical Teacher Tuition, Reimbursement, Critical Student Loan Forgiveness, Teacher Scholarships and Loan Forgiveness, “Chappie” James Most Promising Teacher, and Minority Teacher Scholars) and prorate these awards based on General Appropriations Act funding.
- Requires return of unused Minority Teacher Scholarship balances at end the fiscal year.
- Requires FSAG-level need requirement for First Generation Scholarships.
- Repeals Ethics in Business Scholarship Program.
- Limits community college president salaries to \$225,000 from state funds. Limits all community college and all state university employee severance payouts to one year from state funds.

This bill substantially amends, creates, or repeals the following sections of the Florida Statutes: 216.136, 1001.64, 1001.706, 1001.74, 1007.33, 1009.21, 1009.24, 1009.286, 1009.53, 1009.532, 1009.534, 1009.536, 1009.57-605, 1009.701, 1009.765, 1009.98, 1011.32, 1011.83, 1011.85, 1011.94, 1012.83, and 1011.79.

## II. Present Situation:

### **The Florida Bright Futures Scholarship Program**

The Florida Bright Futures Scholarship Program is a lottery-funded program that rewards Florida high school graduates whose academic achievement merits the award. The Bright Futures Scholarship Program consists of the Florida Academic Scholars Award, the Florida Medallion Scholars Award, and the Florida Gold Seal Vocational Scholars Award. Each award has its own academic eligibility requirements, award amounts, and funding length. The Florida Academic Scholars award pays the amount required to pay tuition and fees plus an additional amount for college-related expenses. The Florida Medallion Scholars award and the Florida Gold Seal Vocational Scholars award pay 75 percent of tuition and certain fees.

A student may use a Bright Futures Scholarship award to enroll in a degree program, certificate program, or applied technology program at an eligible Florida public or private postsecondary education institution within three years of graduation from high school.<sup>1</sup>

The Florida Gold Seal Vocational Scholars award within the Florida Bright Futures Scholarship Program awards academic achievement and career preparation by high school students who wish to continue their education. Gold Seal Vocational Scholars are not subject to the standardized testing score requirements that Academic and Medallion Scholars must achieve for eligibility for awards. A student may earn a Florida Gold Seal Vocational Scholarship for 110 percent of the number of credit hours required to complete the program, up to 90 credit hours or the equivalent. A Florida Gold Seal Scholar who has a cumulative grade point average of 2.75 in all postsecondary education work attempted may apply for a Florida Medallion Scholars award at any renewal period.

Students receiving Florida Academic Scholars Awards receive an additional annual award for college-related-expenses as determined in the General Appropriations Act. In the 2008-09 General Appropriations Act, the award for college-related-expenses was set at \$375 and the appropriation to cover this award in 2008-2009 was approximately \$12,500,000.

#### **Disbursement and Remittance of Scholarship Funds**

Postsecondary institutions must disburse the scholarship funds after the last day of the drop and add period.<sup>2</sup> The drop and add period is the limited period during which a postsecondary institution allows students to drop specific courses or to enroll in additional courses. An institution must remit to the DOE any funds for students who received a disbursement but terminated enrollment, if a refund is permitted by the institution's refund policy.<sup>3</sup>

#### **Eligibility for Scholarship Renewal**

Currently, in order to renew the scholarship, a student must complete a minimum of 12 semester credit hours or the equivalent in the last academic year in which he earned a scholarship and maintain the cumulative grade point average (GPA).<sup>4</sup> A Bright Futures recipient whose grades are insufficient to renew the scholarship is eligible for a one-time restoration of eligibility. The student may raise his GPA during the summer term if that is possible.<sup>5</sup> If the student is not able to earn the required grade point average during the summer, the statute permits the student to do so over an academic year and to renew the scholarship in the fall of the following academic year.<sup>6</sup>

#### **Financial Aid Appeal Process**

A student who believes an error has been made in determining his eligibility for financial aid may appeal to DOE.<sup>7</sup> The Office of Student Financial Assistance must investigate the complaint

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<sup>1</sup> s. 1009.53(1), F.S.

<sup>2</sup> s. 1009.53(5)(a), F.S.

<sup>3</sup> *Id.*

<sup>4</sup> s. 1009.532(1)(a), F.S.

<sup>5</sup> s. 1009.532(1)(b), F.S.

<sup>6</sup> *Id.*

<sup>7</sup> s. 1009.42, F.S.

and take appropriate action within 30 days. If the student wishes further review of the appeal, a committee appointed by the Commissioner of Education must consider the appeal.<sup>8</sup>

### Prepaid College Plans

The State of Florida offers the Stanley G. Tate Florida Prepaid College Plan (Prepaid Plan) to assist families in planning and saving for a college education.<sup>9</sup> The Prepaid Plan contracts lock in many of the costs associated with postsecondary attendance at the time the contracts are purchased. The Prepaid College Board is authorized to offer advance payment contracts for a community college tuition plan, a university tuition plan, a community college plus university tuition plan, a university dormitory plan, a local fee plan, and a tuition differential fee plan.<sup>10</sup>

The tuition plans cover registration fees, which include the tuition fee, the financial aid fee, the building fee, and the Capital Improvement Trust Fund fee.<sup>11</sup> Typically, the tuition fee increases annually based on Legislative authorization.<sup>12</sup> Below is a chart showing the authorized undergraduate tuition increases for the previous three years:

Tuition Increase	2006-07	2007-08	2008-09
Community Colleges	2.5%	5.0%	6.0%
State Universities	3.0%	5.0%	6.0%

Each year, the Prepaid College Board conducts an analysis of the actuarial adequacy of the Prepaid Trust Fund.<sup>13</sup> In order to conduct this analysis, a series of assumptions are made regarding investment yield, tuition increases, tuition differential fee increases, local fee increases, and dormitory fee increases.<sup>14</sup> The result of the analysis is a determination of the actuarial reserve, which means the amount by which the expected value of the assets in the Prepaid Trust Fund exceeds the value of the expected liabilities. Below is a chart showing a three-year history of the actuarial reserve and the university tuition increase used in the assumptions.<sup>15</sup>

Actuarial Information	2005-06	2006-07	2007-08
Actuarial Reserve	\$586 million	\$847 million	\$775 million
% of Expected Liabilities	9.6%	12.9%	10.3%
Assumed Tuition Increase	6.5%	6.5%	6.5%

<sup>8</sup> *Id.*

<sup>9</sup> Section 1009.98(1), F.S.

<sup>10</sup> Section 1009.98(2), F.S.; see also <http://www.myfloridaprepaid.com/plans> (last visited Sept. 29, 2008).

<sup>11</sup> Section 1009.97(3)(g), F.S.

<sup>12</sup> Sections 1009.23 and 1009.24, F.S.

<sup>13</sup> Section 1009.971(4)(f), F.S.

<sup>14</sup> Florida Prepaid College Board, *Analysis of Actuarial Adequacy as of June 30, 2008*.

<sup>15</sup> Florida Prepaid College Board, *Analysis of Actuarial Adequacy as of June 30, 2006; June 30, 2007; June 30, 2008*.

To the extent the tuition increase and other assumptions are more or less than the actuarial assumptions, the actuarial reserve may grow or decline significantly. The current reserve, estimated as of March 20, 2009, is approximately \$408 million.

Beginning July 1, 2007, the Prepaid College Board was authorized to provide a tuition differential contract to cover the tuition differential fee, which was created during the 2007 Session.<sup>16</sup> As of February 12, 2009, the board has sold 17,846 tuition differential contracts.<sup>17</sup> Beneficiaries who enroll at state universities and have prepaid tuition contracts for university plans which were in effect on July 1, 2007, which remain in effect, are exempt from the payment of the tuition differential.<sup>18</sup> As of June 30, 2007, there were 829,804 active prepaid contracts.<sup>19</sup>

### **State University Excess Hours**

In 2004, OPPAGA issued a report in response to a legislative request to identify financial incentives the Legislature could implement to decrease state higher education funding costs.<sup>20</sup> OPPAGA studied polices to encourage students to earn degrees with fewer excess credit hours. The report suggested three ways to reduce state costs:

- Charge the full cost for credit hours in excess of 115 percent of graduation requirements.
- Provide tuition rebates to students who graduate with minimal excess hours.
- Offer “locked-in” tuition, which requires students who do not graduate within four years to pay higher tuition rates.

Seventy-eight percent of all students graduating from the SUS in 2002-2003 accumulated excess hours. These students attempted 719,660 credit hours in excess of graduation requirements. The analysis included excess hours that students bring from community colleges. The 719,660 excess hours attempted by students graduating in 2002-2003 cost the state \$62 million. However, 20 percent of all students accounted for 57 percent of all credit hours over the minimum graduation requirements. OPPAGA estimated that charging the full cost for credit hours in excess of 115% of graduation requirements could save \$29 million annually.

In 2006, the Office of Program Policy and Government Accountability (OPPAGA) released a report on the cost of excess hours taken by students.<sup>21</sup> According to the report:

- Most students attending the state’s public universities graduate with credit hours in excess of graduation requirements, which increases state higher education costs.
- The 780,769 excess hours of students graduating with bachelor’s degrees in FY 2004-05 cost the state \$62 million.
- Twenty percent of the students accounted for over one-half (58%) of all credit hours over the minimum graduation requirements.

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<sup>16</sup> Ch. 2007-225, L.O.F.; s. 1009.24(16), F.S.

<sup>17</sup> Florida Prepaid College Board analysis of HB 403.

<sup>18</sup> Section 1009.24(16)(c), F.S.

<sup>19</sup> Florida Prepaid College Board, *Analysis of Actuarial Adequacy as of June 30, 2007*.

<sup>20</sup> *Stronger Financial Incentives Could Encourage Students to Graduate with Fewer Excess Hours*, Office of Program Analysis and Government Accountability, Report No. 04-44, June 2004

<sup>21</sup> *Excess Hours Cost State \$62 Million Annually; University Actions May Help Address Problems*, Office of Program Analysis and Government Accountability, Report No. 06-58, August 2006.

- Florida public postsecondary institutions have taken steps to reduce time to graduation and excess hours. Because these strategies have been implemented relatively recently, it is too early to draw conclusions on their effectiveness.
- The percentage of graduates with hours in excess of 115 percent of graduation requirements varies by university.
- Similar to the findings for the 115 percent threshold, the percentage of graduates with hours in excess of 120 percent of the graduation requirement also varies considerably by institution.

For Report 06-58, OPPAGA calculated excess credit hours by counting credit hours attempted (including failed and dropped courses) while attending a public postsecondary institution. The analysis also included excess hours that students transferred from community colleges but excluded credits not earned in a public postsecondary institution and remediation course credits.

OPPAGA has also found that the 2006-2007 university graduates attempted 861,000 credits in excess of graduation requirements. This cost the state \$76 million, a 23% increase since 2002-03. OPPAGA found that 20% of students accounted for over one-half (57%) of the excess hours.<sup>22</sup>

OPPAGA has identified several factors that contribute to students accumulating excess hours:<sup>23</sup>

- Changing majors;
- Withdraw from or fail classes;
- Taking classes that interest them but are not required;
- Scheduling conflicts;
- Advising; and
- Articulation from community colleges not smooth.

### **Postsecondary Education Residency Requirements**

Current law requires students to be classified as residents or nonresidents for the purpose of assessing tuition in community colleges and state universities.<sup>24</sup> To qualify as a resident for tuition purposes, a student, or the student's parents if the student is a dependent, must have established legal residence in the state and maintained legal residence in the state for at least 12 months immediately prior to the student's qualification. Presence in the state must have been for the purpose of maintaining a bona fide domicile, rather than for the purpose of maintaining a mere temporary residence or abode incident to enrollment in an institution of higher education. Every applicant for admission must make a statement as to his or her length of residence in the state and establish that his or her presence in the state currently is, and during the requisite 12-month qualifying period was, for the purposes of maintaining a bona fide domicile, rather than for the purpose of maintaining a mere temporary residence or abode incident to enrollment in an institution of higher education.

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<sup>22</sup> State Universities & Private Colleges Policy Committee meeting agenda materials (March 18, 2009).

<sup>23</sup> *Id.*

<sup>24</sup> See s. 1009.21, F.S.

OPPAGA has examined issues relating to student residency in three different reports since 2003. OPPAGA report 03-29 found that 28% of the nonresident students in community colleges and 25% in state universities were reclassified as in-state residents by the end of a 3-year period. Because out-of-state students must pay more than Florida residents, this reclassification resulted in an annual loss in fee revenue. The 2003 report estimated this loss as \$28.2 million annually. OPPAGA's 2005 report found that the estimated annual loss in revenue had nearly doubled to \$56.5 million due in part to growth in nonresident students and tuition increases. OPPAGA's most recent review, a RESEARCH MEMORANDUM issued March 12, 2009, finds that the percentage of out-of-state students reclassifying as Florida residents has continued to increase since the earlier reports and that reclassification of out-of-state students admitted in 2005-06 to Florida resident status resulted in a loss of \$92.2 million over three years (2005-06 through 2007-08)<sup>25</sup>.

A more detailed discussion of each of these reviews is included in the sections that follow. OPPAGA Report 03-29: A 2003 OPPAGA Special Review found that although Florida law and rules are intended to enable universities and community colleges to accurately and consistently classify students for in-state and out-of-state residency, the process was substantially flawed.<sup>26</sup> OPPAGA found that institutions were using inconsistent screening criteria and procedures creating the potential for misclassifications and variations in the threshold a student must meet to qualify for residency. OPPAGA identified three costly weaknesses in the criteria and procedures used at the time in classifying students as residents for tuition purposes:

1. The laws and rules did not provide adequate criteria governing under what specific circumstances students should be reclassified as Florida residents.
2. The criteria did not adequately specify the determination of students' dependency status.
3. Institutions were applying varying standards for documenting residency.

The 2003 report recommended that to improve the residency classification process, the Legislature should amend the law to require that students (or their parents if the students are dependents) must maintain legal residence in the state for at least 12 months immediately prior to the student's initial enrollment or registration at a Florida public postsecondary institution to be eligible for classification for in-state residency. OPPAGA also recommended that the Legislature more clearly define when a nonresident student could be eligible for reclassification as a resident.

OPPAGA Report 05-41: In 2005, OPPAGA published a progress report to inform the Legislature of actions taken in response to the 2003 report.<sup>27</sup> The progress report found that the Department of Education (DOE), the State Board of Education (SBE), and the Board of Governors (BOG) had taken most of the actions recommended by the 2003 report. The SBE and BOG adopted rule changes to provide additional guidance in reclassifying students from nonresident to resident status.<sup>28</sup> The rule states that a student wishing to be reclassified must provide documentation which substantiates that he or she, or if a dependent, the student's

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<sup>25</sup> This estimate assumes that nonresident students still would have attended a Florida institution even if they were not reclassified as Florida residents.

<sup>26</sup> *Id.*

<sup>27</sup> Report 05-41, OPPAGA, *Department of Education Improves Rules Guiding Resident Tuition Determinations*.

<sup>28</sup> *Id.*

parent, or guardian, is establishing Florida as a permanent domicile and not as a mere temporary residence incident to enrollment in higher education. The rule specifies a 12-month period of legal residence in the state prior to the first day of classes for the term for which residency is sought.

The 2005 report found that the recommendation to implement periodic internal reviews of residency decisions was not implemented. DOE noted that s. 1009.21, F.S., does not assign authority to the department to specifically address this problem. State audits do not focus on residency decisions. Accreditation standards for internal audits do not explicitly address residency decisions. OPPAGA's review found that, while some institutions validate residency determinations through internal audits and random sampling techniques, most of the institutions OPPAGA interviewed did not engage in this practice. The report noted that, given the high error rates found in the review, more thorough review of residency decisions was warranted.

OPPAGA Research Memorandum (March 12, 2009): OPPAGA has recently updated its work on the residency classification of students. The most recent report indicates that reclassification of out-of-state students to resident student status has continued to increase in both the State University System and the Florida College System. Almost 30% of the nonresidents entering the State University System in 2005-06 were reclassified as in-state students by the end of the 2007-08 academic year; 41% of nonresident students in the Florida College System were reclassified. OPPAGA speculates that the increase in the reclassification rate may be due to a more stringent enforcement of residency requirements for the initial residency determination.

### **State University Graduate and Professional Tuition**

The Board of Governors, or the board's designee, may establish tuition for graduate and professional programs, and out-of-state fees for all programs. The sum of tuition and out-of-state fees assessed to nonresident students must be sufficient to offset the full instructional cost of serving such students. However, adjustments to out-of-state fees or tuition for graduate programs pursuant to this section may not exceed 10 percent in any year, and adjustments to out-of-state fees or tuition for professional programs may not exceed 15 percent in any year.

### **Community College and State University Operating Challenge Grant Programs**

The Dr. Philip Benjamin Matching Grant Program for Community Colleges and the University Major Gifts Program encourage private support in enhancing community colleges and state universities. The programs provide donors with an incentive in the form of a state match for the establishment of scholarships and permanent endowments.

### **Community College and State University Facility Enhancement Challenge Grant Programs**

The Community College Facility Enhancement Challenge Grant Program and the Alec P. Courtelis University Facility Enhancement Challenge Grant Program assist institutions to build high priority capital facilities. A community college or state university must raise from private sources a contribution equal to one-half of the total cost of a facilities construction project in order to obtain an equivalent state match for the remaining one-half of the total cost. The state match is contingent upon an appropriation by the Legislature.

Community colleges and state universities are prohibited from initiating the project until the private funds for the planning, construction, and equipping of the facility have been received and

deposited in an identified program account and the state match has been appropriated. A community college or state university may expend available funds from private sources to develop a prospectus, including architectural schematics or models, to use in its efforts to raise private funds for the facility. If the project is terminated, each private donation, plus accrued interest, is remitted to the donor.

### **Community College Baccalaureate Programs**

A community college may develop a proposal to deliver specified baccalaureate degree programs in its district to meet local workforce needs. A community college may also develop proposals to deliver baccalaureate degree programs in math and science which would prepare graduates to enter a teaching position in math or science. The community college's proposal must be submitted to the State Board of Education for approval. The number of degrees at each community college is not limited and is not subject to review for potential inclusion within the institutions under the Board of Governors of the State University System.

Current law contains a state policy statement for funding for baccalaureate degree programs in the General Appropriations Act to limit state support for recurring operating purposes to no more than 85 percent of the amount of state expenditures for direct instruction per credit hour in upper-level state university programs. A community college may temporarily exceed this limit due to normal enrollment fluctuations or unforeseeable circumstances or while phasing in new programs. This provision does not authorize the Department of Education to withhold legislative appropriations to any community college.

### **State Scholarship Programs**

Florida has a variety of state specialty scholarship programs including the Florida Teacher Scholarship and Forgivable Loan Program, the Critical Teacher Shortage Tuition Reimbursement and Student Loan Forgiveness Program, the Minority Teacher Education Scholars Program and the Florida Fund for Minority Teachers. The statutes for these specialty scholarship programs include an award target which are not consistent with appropriated levels of these programs. During recent years the state priority as reflected in appropriations has been growth in need-based awards for students as opposed to specialty scholarships. Awards for the specialty scholarships have been prorated based on funds available. One of these program is administered by a private concern, the Florida Fund for Minority Teachers. Unlike other scholarship funds, these funds, if unused, are not required to be returned to the state.

The First Generation Matching Grant Program provides grants to degree-seeking undergraduate Florida residents whose parents have not earned baccalaureate degrees. Although the statute authorizing the program lists need as a basis for consideration for receiving the grant, no need-based criteria is mentioned.

The Ethics in Business Scholarship Program was created by the 1997 Florida Legislature from funds received from a settlement as specified in the Consent Order of the Treasurer and Insurance Commissioner, case number 18900-96-c. The scholarship is not heavily utilized

### **Limitations on Community College and State University Salary and Severance**

Current law prohibits a state university president from receiving more than \$225,000 in salary annually from public funds, but does not restrict community college president salary. Current

law does not restrict employment contracts regarding severance pay for community college or state university personnel.

**III. Effect of Proposed Changes:**

**Bright Futures Scholarship Program**

Postsecondary institutions participating in the Florida Bright Futures Scholarship program would be required to refund to the DOE within 30 days after the end of the semester any funds received for courses a student dropped or withdrew from after the end of the drop and add period. An exception could be made if a student dropped or withdrew from the course because of a verifiable illness or emergency.

Students classified as full-time would have to complete at least 24 semester credit hours, or the equivalent, in an academic year for renewal eligibility, or a prorated number of hours if the student was enrolled less than full-time. A one-time restoration of eligibility is provided for a student who lost Bright Futures eligibility because of insufficient credit hours. After one year, a student who earned the required number of hours and maintained the required GPA would be eligible for restoration of the scholarship.

The bill revises two other Bright Futures provisions. First, the ability for Florida Gold Seal Vocational Scholars to apply for a Florida Medallion Scholars award at any renewal period is repealed. Therefore, these awards will be limited to a maximum of 90 credit hours. Second, the bill deletes the authority for college-related expenses (commonly referred to as the “book allowance”) for Academic Scholars.

**Prepaid Tuition College Plans**

The bill authorizes the Prepaid College Board to provide advance payment contracts that cover registration fees, tuition differential fees, and local fees under one contract, rather than under separate contracts as presently offered. The board is authorized to provide such contracts in specific increments, such as credit hours, usable toward either an associate degree or a baccalaureate degree, rather than the two-year or four-year increments presently offered.

The bill establishes a payment methodology to state universities on behalf of beneficiaries of advance payment contracts purchased prior to July 1, 2009. The payment methodology specifies the level of tuition increases and tuition differential increases that the Prepaid College Board will pay each year, based on the actuarial reserve for that year. Such a methodology may provide greater predictability to both the Prepaid College Board and the state universities.

The payment methodology is as follows:

<b>If the actuarial reserve is:</b>	<b>The increase above the prior year shall be:</b>
<5% of expected liabilities	5.5%
5% - 6% of expected liabilities	6.0%
6% - 7.5% of expected liabilities	6.5%
>7.5% of expected liabilities	7.0%

Qualified beneficiaries of advance payment contracts purchased prior to or on July 1, 2007, are exempt from paying the tuition differential.

The bill also establishes a payment methodology to state universities on behalf of beneficiaries of advance payment contracts purchased after July 1, 2009. The Prepaid College Board must pay state universities the actual amount assessed in accordance with law for registration fees and the tuition differential fee for such contracts.

### **State University Excess Hours**

The bill requires students enrolled in a state university to pay an excess hour surcharge equal to 50 percent of the tuition rate for each credit hour in excess of 120 percent of the number of credit hours required to complete the baccalaureate degree program in which the student is enrolled. This provision applies to students entering a state university or community college for the first time in the 2009-10 academic year and thereafter. The following hours are to be included in the excess hour calculation:

- All credit hours for courses taken at the state university from which a student is seeking a baccalaureate degree, including:
  - Failed courses.
  - Courses that are dropped after the university's advertised last day of drop and add period.
  - Courses from which a student withdraws, except for courses from which a student withdrew due to reasons of medical or personal hardship.
  - Repeated courses, except repeated courses for which a student has paid the full cost of instruction.
- All credit hours earned at another institution and accepted for transfer by the state university toward a student's undergraduate degree.

Credit hours earned under the following circumstances are not calculated as hours required to earn a degree:

- College credit hours earned through an articulated accelerated mechanism.
- Credit hours earned through internship programs.
- Credit hours required for certification, recertification, or certificate programs.
- Credit hours in courses from which a student must withdraw due to reasons of medical or personal hardship.
- Credit hours taken by active duty military personnel.
- Credit hours required to achieve a dual major undertaken while pursuing a baccalaureate degree.
- Remedial and English as a Second Language credit hours.
- Credit hours earned in military science courses that are part of the Reserve Officers' Training Corps (ROTC) program.

The bill requires state universities and community colleges to implement a process for notifying students of the excess hour surcharge upon initial enrollment. State universities are required to send a second notice when a student has earned the credit hours required to complete the degree program in which the student is enrolled. The notice must include a recommendation that each student who intends to earn credit hours at a state university beyond those required for the baccalaureate degree program in which the student is enrolled meet with the student's academic advisor.

### **Postsecondary Education Residency Requirements**

The bill revises residency criteria to require that a person reside in-state for 12 consecutive months immediately prior to initial enrollment in an institution of higher education in Florida to qualify as a resident for tuition purposes.

The bill defines the term "initial enrollment" as the first day of class at an institution of higher education.

The term "institution of higher education" is defined as any community college as defined in s. 1000.21(3), F.S., or state university as defined in s. 1000.21(6), F.S. Section 1000.21(3), F.S., defines the term "community college" to include the following institutions: Brevard Community College; Broward College; Central Florida Community College; Chipola College; Daytona Beach College; Edison College; Florida Community College at Jacksonville; Florida Keys Community College; Gulf Coast Community College; Hillsborough Community College; Indian River College; Lake City Community College; Lake-Sumter Community College; Manatee Community College; Miami Dade College; North Florida Community College; Okaloosa-Walton College; Palm Beach Community College; Pasco-Hernando Community College; Pensacola Junior College; Polk College; St. Johns River Community College; St. Petersburg College; Santa Fe College; Seminole Community College; South Florida Community College; Tallahassee Community College; and Valencia Community College.

Section 1000.21(6), F.S., defines the term "state university" to include the following institutions: the University of Florida; the Florida State University; the Florida Agricultural & Mechanical University; the University of South Florida; the Florida Atlantic University; the University of West Florida; the University of Central Florida; the University of North Florida; the Florida International University; the Florida Gulf Coast University; and New College of Florida.

The bill requires that legal residence must be established by written or electronic verification that includes two or more of the following Florida documents:

- A voter information card;
- A driver's license;
- An identification card issued by the state;
- A vehicle registration;
- A declaration of domicile;
- Proof of purchase of a permanent home;
- Proof of a homestead exemption in the state;
- A transcript from a Florida high school;
- A Florida high school equivalency diploma and transcript;

- Proof of permanent full-time employment;
- Proof of 12 consecutive months of payment of utility bills;
- A domicile lease and proof of 12 consecutive months of payments; or,
- Other official state or court documents evidencing legal ties to Florida.

All of these documents must demonstrate clear and convincing evidence of continuous residence in the state for at least 12 consecutive months prior to the student's initial enrollment in an institution of higher education.

The bill clarifies that a dependent child can claim residency by documentation of his or her parent's legal residence and its duration, as well as documentation confirming his or her status as a dependent child. The documentation must provide clear and convincing evidence that residency in Florida was for a minimum of 12 consecutive months prior to the student's initial enrollment in an institution of higher education.

The bill provides for reclassification from nonresident to resident if a person provides documentation that supports the person's permanent residency in the state such as documentation of permanent full-time employment for the prior 12 months or purchase of a home in this state and residence therein for the prior 12 months while not enrolled at an institution of higher education. If a dependent child's parents or parent moves to Florida while the child is in high school and the child graduates from a high school in this state, the child may become eligible for reclassification as a resident for tuition purposes when the parent qualifies for permanent residency.

The bill requires each community college and state university to determine the dependency status of students who have been admitted and affirmatively determine that applicants who have been admitted as Florida residents meet the residency requirements at time of initial enrollment.

#### **State University Graduate Tuition**

The bill modifies the tuition adjustment flexibility limit for graduate programs to match professional degree programs. Now graduate tuition adjustments may not exceed 15 percent in any year.

#### **Community College and State University Facility Enhancement Challenge Grant Programs**

The bill authorizes community colleges and state universities to initiate project construction using the donated funds until the state match funds have been appropriated. Such facilities are not eligible to be submitted for state support for operations until the state matching funds have been provided.

The bill also requires each community college and state university to notify all donors of private funds of a substantial delay in the availability of state matching funds for the facilities challenge grant programs.

#### **Community College and State University Operating Challenge Grant Programs**

The bill requires each community college and state university to notify all donors of private funds of a substantial delay in the availability of state matching funds for the operating challenge grant programs.

**Community College Baccalaureate Programs**

The bill temporarily suspends the establishment of new baccalaureate degree programs at community colleges during the 2009-10 fiscal year. The bill also removes the policy statement on community college baccalaureate programs and clarifies that the programs will be funded as provided in the General Appropriations Act.

The bill creates a review process for community colleges offering a large number of baccalaureate degrees. If a community college offers more than twenty-five baccalaureate degree programs, the Board of Governors shall review the programs and determine whether such programs should be transferred to the Board of Governors' oversight.

**State Scholarship Programs**

The bill conforms statutes to current practice by clarifying that the Florida Teacher Scholarship and Forgivable Loan Program, the Critical Teacher Shortage Tuition Reimbursement and Student Loan Forgiveness Program, the Minority Teacher Education Scholars Program and the Florida Fund for Minority Teachers awards will be based on funds available, rather than a fixed amount. Use of unused scholarship funds by the Florida Fund for Minority Teachers will be return to the state, as is the practice of other state scholarship programs.

Students participating in the First Generation Matching Grant Program will need to meet the same need-based criteria as the state's primary financial aid need-based program, the Florida Student Assistance Grant Program.

The low utilization Ethics in Business Scholarship Program is repealed allowing the settlement proceeds to be utilized for other state scholarships.

**Limitations on Community College and State University Salary and Severance**

The bill prohibits a community college president from receiving more than \$225,000 in salary annually from state funds. The bill also limits all community college employment contracts and all state university employment contracts from providing severance pay from state funds for more than one year. This subsection does not prohibit the payment of leave and benefits accrued by the employee in accordance with leave and benefits policies before the contract terminates.

**IV. Constitutional Issues:****A. Municipality/County Mandates Restrictions:**

None.

**B. Public Records/Open Meetings Issues:**

None.

**C. Trust Funds Restrictions:**

None.

D. Other Constitutional Issues:

The Board of Governors has challenged the Legislature's authority over the state university system.<sup>29</sup> One of the issues in that lawsuit is a challenge to the Legislature's authority in setting university tuition and fees.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

**Bright Futures Refunds of Dropped Classes**

Private postsecondary institutions would have to refund to the DOE funds that paid for courses dropped by students. According to the DOE, the amount that private institutions would refund in 2009-2010 would be \$1.4 million.

**Prepaid College Plans**

The bill authorizes the Prepaid College Board to provide advance payment contracts that cover registration fees, tuition differential fees, and local fees under one contract, rather than under separate contracts as presently offered. The board is authorized to provide such contracts in specific increments, such as credit hours, usable toward either an associate degree or a baccalaureate degree, rather than the two-year or four-year increments presently offered. Such contracts provide an additional option for Floridians who are saving for the costs of a college education.

**State University Excess Hours**

Students who take in excess of 120 percent of the number of credit hours required to complete the baccalaureate degree program in which the student is enrolled would incur additional charges.

**Postsecondary Education Residency Requirements**

Under the provisions of the bill, a student may be required to pay the out-of-state fee if the student is not eligible for reclassification.

C. Government Sector Impact:

**The Florida Bright Futures Scholarship Program**

The following chart from the Department of Education projects a cost savings of \$30,344,371 in 2009-2010 relating to the bill's provisions regarding dropped courses for Florida Academic Scholars (FAS), Florida Medallion Scholars (FMS), and Gold Seal vocational Scholars (GSV).

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<sup>29</sup> *Bob Graham et al v. Ken Pruitt, President of the Florida Senate and Marco Rubio, Speaker of the Florida House of Representatives*, Case No. 2007-CA-1818.

**2009-2010 Projected Cost Savings of Bright Futures Dropped/Withdrawn Hours by Sector and Program Award**

Institution Type	Total Hours Dropped/Withdrawn	Sector/Program Percent of Hours Dropped / Withdrawn	Cost per Credit Hour	Projected Cost of Hours Dropped/Withdrawn
<b>2-Year Public</b>	<b>75,734</b>	24.3%		<b>\$5,691,814</b>
FAS	2,848		<b>\$75.62</b>	\$215,366
FMS	71,024		\$75.62	\$5,370,835
GSV	1,862		\$56.72	\$105,613
<b>4-Year Public</b>	<b>222,313</b>	71.2%		<b>\$23,171,811</b>
FAS	54,561		<b>\$128.46</b>	\$7,008,906
FMS	166,717		\$96.35	\$16,063,183
GSV	1,035		\$96.35	\$99,722
<b>4-Year Private</b>	<b>14,115</b>	4.5%		<b>\$1,480,746</b>
FAS	3,761		<b>\$128.46</b>	\$483,138
FMS	10,279		\$96.35	\$990,382
GSV	75		\$96.35	\$7,226
<b>TOTAL</b>	<b>312,162</b>			<b>\$30,344,371</b>
<b>FAS</b>	<b>61,170</b>	20%		<b>\$7,707,410</b>
<b>FMS</b>	<b>248,020</b>	79%		<b>\$22,424,400</b>
<b>GSV</b>	<b>2,972</b>	1%		<b>\$212,561</b>

The DOE estimates a cost savings of \$20,325,208 in 2009-2010 based on the changes in renewal eligibility criteria. This estimate was calculated based on the number of full-time and prorated students who would not meet the credit hour renewal requirements. The chart below shows the projected savings according to scholarship type:

**2009-2010 Projected cost Savings from Non-renewal Students Not Earning Full-time or Prorated Course Enrollments as Funded**

Bright Futures Program	Projected Savings
Florida Academic Scholars	\$ 5,342,303
Florida Medallion Scholars	\$14,978,979
Florida Gold Seal Vocational Scholars	\$ 3,927
<b>Total</b>	<b>\$20,325,208</b>

The removal of the annual college related expense award, based on the current General Appropriations Act level of \$375 per student, will result in an appropriations savings of \$14,244,000 for 2009-10. The removal of the option of a Gold Seal scholarship student to renew as a Medallion scholar would result in a Bright Futures savings to the state of approximately \$275,000 in 2009-10. This number is expected to grow in the following years as more cohorts of students move through the system.

**Prepaid College Plans**

The bill specifies the payout rates to state universities for advance payment contracts purchased prior to July 1, 2009, which may provide additional predictability to the Prepaid College Board to ensure the actuarial soundness and financial viability of the Prepaid Trust Fund. Linking the annual tuition increases to the size of the actuarial reserve may help to limit growth in the actuarial reserve. Additionally, the bill provides a more predictable revenue stream to state universities on behalf of all prepaid contract beneficiaries who purchase a contract prior to July 1, 2009. To the extent the annual increases in the tuition differential fee exceed annual increases in tuition, the payment methodology established in the bill will increase the revenue provided to state universities on behalf of prepaid beneficiaries.

**State University Excess Hours**

OPPAGA Report 04-44 found that the 719,660 excess hours attempted by students who graduated in 2002-03 cost the state \$62 million. The report projected that charging the full cost for credit hours in excess of 115% of graduation requirements could save \$29 million annually. OPPAGA Report 06-58 found that the 780,769 excess hours taken by the 37,424 students who received of bachelor degrees from state universities during Fiscal Year 2004-2005 cost the state \$62 million. OPPAGA found that the 2006-2007 university graduates attempted 861,000 credits in excess of graduation requirements. This cost the state \$76 million, a 23% increase since 2002-03.<sup>30</sup>

The Board of Governors estimates the provisions of the bill will produce recurring revenues of \$7.6 million for FY 2009-10 and \$7.7 million in FY 2010-2011. The estimate is based on a 0% CPI and a base tuition increasing at that rate and no tuition differential. The enrollment growth in the out year is assumed to be at the annualized average of the 5-year growth rates in the universities' August 2008 enrollment plans. Exceptions to the excess hours accounted for include military science credits, accelerated credits, and dual majors. Exceptions to the excess hours not accounted for include medical or personal withdrawal and credits taken by active duty military personnel. The estimate assumes students would pay the excess hours surcharge rather than drop out.<sup>31</sup>

Universities may incur expenses in redesigning their financial systems to identify excess hours and calculate the excess hours surcharge.<sup>32</sup>

**Postsecondary Education Residency Requirements**

In 2007-08, the state provided approximately 70 percent of the cost of instruction for Florida residents enrolled in community colleges and state universities with students paying the balance with tuition. To the extent the proposed changes result in fewer out-of-state students being reclassified as Florida residents, there may be increased revenues collected by community colleges and state universities and cost savings to the state if these students choose to continue their education at a Florida community college or state university.

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<sup>30</sup> State Universities & Private Colleges Policy Committee meeting agenda materials (March 18, 2009).

<sup>31</sup> Board of Governors Analysis of PCB SPCP 09-02 (March 27, 2009).

<sup>32</sup> *Id.*

OPPAGA's 2003 review found that about 25% of out-of state students were reclassified as residents at community colleges and universities with a resulting loss of \$28.2 million. Another review conducted by OPPAGA in 2005 found higher education institutions would gain an estimated \$56.5 million in revenue if nonresident students were not reclassified. OPPAGA'S most recent review found that reclassification of out-of-state students admitted in 2005-2006 to Florida resident status resulted in a loss of \$92.2 million over three years (2005-06 through 2007-08). These estimates assume that nonresident students who were reclassified still would have attended a Florida institution even if they were not reclassified as Florida residents. While the exact amount of revenue is indeterminate, it would translate to more resources for the operation of the university and community college system.

### **Community College and State University Challenge Grant Programs**

The cumulative backlog of community college and state university matching grant programs is \$334 million. This backlog of needed match is made up of \$211.1 million for operating challenge grants and \$122.8 million for facilities challenge grants. Community colleges and state universities would be able to use private funds to initiate a facilities challenge grant construction project with donated funds. However, if matching state funds were not appropriated, the project might not be finished. Also, the institutions must have enough donated funds or other revenue to pay for the operating costs of the new facilities until the state provides the matching funds for construction.

### **State Scholarship Programs**

Repeal of the Ethics in Business Scholarship Program allows the settlement proceeds to be utilized for other state scholarships. The proposed committee appropriations bill utilizes the proceeds totaling \$4,867,420 for the state's primary need-based financial aid program, Florida Student Assistance Grants.

## **VI. Technical Deficiencies:**

None.

## **VII. Related Issues:**

None.

## **VIII. Additional Information:**

- A. **Committee Substitute – Statement of Substantial Changes:**  
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

### **CS by Higher Education Appropriations on April 1, 2009:**

The committee substitute makes the following changes:

- Bright Futures –
  - Requires a refund of funds received for courses dropped by students after the end of the drop and add period.

- Revises credit hour renewal requirements for full and part-time students.
- Removes college-related-expense awards for Academic Scholars.
- Prohibits conversion of Gold Seal Awards to Medallion Awards.
- Florida Prepaid College Plans –
  - Establishes set per year payments from Florida Prepaid College Program to State Universities within a reasonable range.
  - Authorizes new plans with incremental credit hour purchases.
- State University Excess Hours – Requires a 50% tuition surcharge after 120% of required credit hours for resident students.
- Postsecondary Education Residency Requirements– Modifies standards for converting to resident status for tuition purposes.
- State University Graduate Tuition Rate – Authorizes up to 15% annual adjustments to match professional tuition flexibility already authorized.
- Higher Education Challenge Grants –
  - Requires notice of state match delay for Community College and State University Facilities and Operating Challenge Grant Donations.
  - Allows Community Colleges and Universities to spend existing donations for facilities projects; however the projects cannot be submitted for state support for operations until the state match has been provided.
- Community College Baccalaureate Programs –
  - Temporarily suspends the establishment of new programs.
  - Modifies the state support and tuition language to be as provided in the General Appropriations Act.
  - Requires Board of Governors (BOG) review of a Community College for possible transfer to BOG oversight when the number of BA degree programs offered exceeds twenty-five degrees.
- Clarifies current practice for scholarship programs by removing specific dollar amounts from certain scholarships and specifies proration of these awards based on General Appropriations Act funding.
- Requires return of unused Minority Teacher Scholarship balances at end the fiscal year.
- Requires FSAG-level need requirement for First Generation Scholarships.
- Repeals Ethics in Business Scholarship Program.
- Limits community college president salaries to \$225,000 from state funds. Limits all community college and all state university employee severance payouts to one year from state funds.

**B. Amendments:**

None.