

Postsecondary Education & Workforce Subcommittee

March 7, 2023
12:45 PM
Morris Hall (17 HOB)

Meeting Packet

Paul Renner
Speaker

Lauren Melo
Chair

Committee Meeting Notice

HOUSE OF REPRESENTATIVES

Postsecondary Education & Workforce Subcommittee

Start Date and Time: Tuesday, March 07, 2023 12:45 pm

End Date and Time: Tuesday, March 07, 2023 03:45 pm

Location: Morris Hall (17 HOB)

Duration: 3.00 hrs

Consideration of the following bill(s):

HB 257 Higher Educational Facilities Financing by Baker
HB 517 Nursing Education for Military Combat Medics by Rudman
HB 931 Postsecondary Educational Institutions by Roach

Consideration of the following proposed committee substitute(s):

PCS for HB 679 -- Agreements of State Colleges and State Universities with Foreign Entities

To submit an electronic appearance form, and for information about attending or testifying at a committee meeting, please see the "Visiting the House" tab at www.myfloridahouse.gov.

NOTICE FINALIZED on 03/03/2023 4:13PM by Haney.Kendall

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 257 Higher Educational Facilities Financing
SPONSOR(S): Baker
TIED BILLS: **IDEN./SIM. BILLS:** SB 598

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Postsecondary Education & Workforce Subcommittee		Dixon	Kiner
2) Appropriations Committee			
3) Education & Employment Committee			

SUMMARY ANALYSIS

The Higher Educational Facilities Financing Authority (HEFFA) is a public corporation that assists the 30 institutions that are members of the Independent Colleges and Universities of Florida (ICUF) in constructing, financing, and refinancing projects. Among other things, the authority may issue tax-exempt or taxable revenue bonds, which are not secured by the full faith and credit of the state and do not constitute an obligation of the state. Financing acquired through the authority may be used for such construction projects as administration and academic buildings, research facilities, libraries, athletic facilities, dormitories, parking and student service facilities, and loans made in anticipation of tuition revenues.

The bill revises several provisions relating to the makeup and operation of HEFFA, including board appointee terms, public meetings and workshops, quorum and participation at such meetings and workshops, audit deadlines, contract administration, means of defining financial responsibility in financing agreements, and legislative determinations with respect to HEFFA's purpose. Specifically, the bill:

- Modifies the legislative findings and declarations by clarifying the necessity of the public interest of the provisions enacted as a matter of legislative determination.
- Specifies the start of a term when the Governor appoints a new member to the HEFFA as beginning on the later of the date the current term expires or the date the new member was appointed.
- Allows for the HEFFA to conduct a public meeting or workshop by means of communications media technology. For meeting or workshops being conducted via communication media technology, the bill requires the HEFFA to provide notice requirements for such meetings and workshops. This bill also revises the requirement for the HEFFA to take action by defining a quorum and the necessity of an affirmative vote of a majority of members participating in the meeting.
- Authorizes the HEFFA to contract with an entity as its agent and to assist the HEFFA with administrative matters.
- Prohibits the HEFFA from entering into a financing agreement with a participating institution for a project, if at the time the agreement is executed, the institution is not financially responsible and not fully capable of and willing to fulfill its obligation under the financing agreement.
- Revises the timeframe that the HEFFA is required to submit a report to the Governor and the presiding offices of each house of the Legislature, to be within six months after the end of its fiscal year.

This bill does not appear to have a fiscal impact on state government and any unforeseen expenses incurred can be absorbed by the Authority's existing resources.

The bill provides an effective date of July 1, 2023.

FULL ANALYSIS

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

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Higher Educational Facilities Financing Authority

Creation and Background

The Higher Educational Facilities Financing Authority (authority) is a public corporation which assists eligible institutions of higher education in constructing, financing, and refinancing educational facilities construction.[1] Participation in financing through the authority is limited to independent nonprofit colleges or universities which are located in and chartered by the state of Florida; are accredited by the Southern Association of Colleges and Schools (SACS); grant baccalaureate degrees; and are not a state university or community college.[2] This includes all 30 institutions belonging to the Independent Colleges and Universities of Florida (ICUF).[3]

Among other things, the authority may issue tax-exempt or taxable revenue bonds; acquire real estate; contract; and execute loans, leases, and other legal instruments.[4] Bonds issued by the authority are not secured by the full faith and credit of the state, and do not constitute an obligation of the state.[5] The authority may not enter into a financing agreement with a participating institution unless the institution demonstrates that it is financially responsible and capable of fulfilling its obligations under the agreement.[6]

Currently, the authority and participating institutions are exempt from taxes or assessments related to a project or any property acquired for a project and any tax on income from those projects. Any bonds issued by the authority, any security for the bonds, the transfer of the bonds, and the income from the bonds (including profit on their sale) and notes, mortgages, security agreements, letters of credit, or other instruments are also exempt from taxation of any kind by the state or any local unit, political subdivision, or other instrumentality of the state. This tax exemption does not apply to income taxes imposed on corporations under ch. 220, F.S.[7]

HEFFA Board Membership, Meetings, and Transacting Business

HEFFA's board consists of five members appointed by the Governor, subject to confirmation by the Senate. The Governor may remove a board member for misfeasance, malfeasance, or willful neglect of duty. Board members serve a term of five years and are eligible for reappointment. Additionally, the Governor may fill any vacancy for an unexpired term. [8]

HEFFA board members do not receive compensation, but may be reimbursed for expenses incurred during their duties.[9]

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[1] Part II, ch. 243, F.S.
[2] Section 243.52(6), F.S. The law defines the terms "institution of higher education" and "participating institution" to be synonymous. *See* s. 243.52(6) and (7), F.S.
[3] *See* Independent Colleges and Universities of Florida*, About Us*, Our Colleges – ICUF (last visited Feb. 4, 2023). ICUF institutions include AdventHealth University, Ave Maria University, Barry University, Beacon College, Bethune-Cookman University, Eckerd College, Edward Waters College, Embry-Riddle Aeronautical University, Everglades University, Flagler College, Florida College, Florida Institute of Technology, Florida Memorial University, Florida Southern College, Hodges University, Jacksonville University, Keiser University, Lynn University, Nova Southeastern University, Palm Beach Atlantic University, Ringling College of Art and Design, Rollins College, St. Leo University, Southeastern University, St. Thomas University, Stetson University, The University of Tampa, University of Miami, Warner University, and Webber International University.
[4] Section 243.54, F.S.
[5] Section 243.64, F.S.
[6] Section 243.58(2), F.S.
[7] Section 243.70, F.S.
[8] Section 243.53(2), F.S.
[9] Section 112.061, F.S.

A majority of HEFFA's members constitutes a quorum and the affirmative vote of the members present at a HEFFA meeting is necessary for HEFFA to take any action.[10]

The HEFFA board must submit an annual report regarding its activities to the Governor and presiding officers of each house of the Legislature within two months of the end of its fiscal year.[11]

Purpose and Powers

The purpose of the HEFFA is to assist eligible institutions[12] in constructing, financing, and refinancing projects[13] throughout the state and to enable these institutions to coordinate budgetary needs with the time of receipt of tuition revenues.[14]

As a public corporation, the HEFFA, has perpetual succession and can adopt bylaws for the regulations of its affairs and the conduct of its business.[15] In conducting its business, the HEFFA can employ consulting engineers, architects, attorneys, accountants, construction and financial experts, superintendents, managers, and other employees and agents as necessary.[16] Additionally, the HEFFA can charge to and equitably apportion among participating institutions[17] its administrative costs and expenses incurred in the exercise of the powers and duties.[18] When screening applications of institutions of higher education for loans, the HEFFA, can contract with an entity as its agent for assistance.[19]

The HEFFA also has the authority to make and execute financing agreements, leases, contracts, deeds and other instruments necessary or convenient in the exercise of the powers and functions of the authority. This includes the sale-leaseback, lease-purchase, lease-leaseback, or other undertakings and provide for the sale of certificates of participation incident thereto. [20] In addition, the HEFFA can mortgage any project and the site thereof for the benefit of the holders of revenue bonds issued to finance projects or those providing credit for that purpose.[21]

Another responsibility of the HEFFA is to issue bonds, bond anticipation notes, and other obligations for any of its corporate purposes.[22] The HEFFA may also receive and accept from any public agency loans or grants for or in aid of the construction of a project.[23] Loans to any participating institution for the cost

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[10] Section 243.53(5), F.S.
[11] Section 243.73(1), F.S.
[12] Section 243.52(6), F.S. defines the term "Institution of higher education" as an independent nonprofit college or university which is located in and chartered by the state; which is accredited by the Commission on Colleges of the Southern Association of Colleges and Schools; which grants baccalaureate degrees; and which is not a state university or Florida College System institution.
[13] Section 243.52(3), F.S. defines the term "project" as a structure that is suitable for use as a dormitory or other housing facility, dining hall, student union, administration building, academic building, library, laboratory, research facility, classroom, athletic facility, health care facility, or maintenance, storage, or utility facility and other structures or facilities related thereto, required thereto, or required or useful for the instruction of students, the conducting of research, or the operation of an institution of higher education. The term also includes parking and other facilities or structures, essential or convenient for the orderly conduct of such institution of higher education and includes equipment and machinery and other similar items necessary or convenient for the operation of a particular facility or structure in the manner for which its use is intended, but does not include such items as books, fuel, supplies, or other items that are customarily deemed to result in a current operating charge. The term also includes a loan in anticipation of tuition revenues by an institution of higher education, as defined in s. 254.52(6), F.S.
[14] Section 243.51, F.S.
[15] Section 253.54(2), F.S.
[16] Section 243.54(10), F.S.
[17] Section 254.52(7), F.S. defines the term "participating institution" as an institution of higher education, as defined in s. 243.52(6), F.S. that undertakes the financing and construction or acquisition of a project or undertakes the refunding or refinancing of obligations or of a mortgage or of advances as provided in and permitted by ss. 243.50-243.77, F.S.
[18] Section 243.54(15), F.S.
[19] Section 243.54(16), F.S.
[20] Section 243.54(6), F.S.
[21] Section 243.54(12), F.S.
[22] Section 243.54(8), F.S.
[23] Section 243.54(11), F.S.

of the project, including a loan in anticipation of tuition revenues can be made by the HEFFA.[24] The HEFFA can make loans to a participating institution to refund outstanding obligations, mortgages, or advances issued, made, or given by the participating institution for the cost of a project.[25]

The HEFFA can determine the location and character of any project to be financed; construct, reconstruct, maintain, repair and lease the project as lessee or lessor; enter into contracts with any of those purposes. For these purposes, the HEFFA can designate the participating institution as the agent of the authority.[26]

Accountability and Transparency

The HEFFA can establish rules for the use of a project, and designate a participating institution as its agent to establish rules for the use of the project undertaken by the participating institution.[27]

The HEFFA will transfer free and clear title to the participating institution when principal and interest on revenue bonds have been paid (or adequate provision has been made to pay any bonds), all other conditions securing the bonds have been satisfied, and the lien has been released. [28]

At the end of each fiscal year, the HEFFA will submit a report to the Governor and the presiding officers of each house of the Legislature, within two months after the end of its fiscal year. The report will include: [29]

- The HEFFA's operation and accomplishments.
- The HEFFA's receipts and expenditures during the fiscal year.
- The HEFFA's assets and liabilities at the fiscal year and the status of reserved, special or other funds.
- A schedule of bonds that are outstanding at the end of the fiscal year, with a statement of the principal amounts of bonds issued and redeemed during the fiscal year.
- Any other information the HEFFA deems appropriate.

With the report, the HEFFA will also submit a copy of an annual financial audits of its accounts and records and an annual compliance audit of its programs conducted by an independent certified public accountant.[30]

Undertaking Projects

Eligibility and the undertaking for any projects will be determined by the HEFFA. One requirement is that the project is appropriate to the need and circumstance of, and will make a significant contribution to the purposes of, the authority and will serve a public purpose by advancing the prosperity and general welfare of the state and public. In addition, a financing agreement for a project will not be entered into with a participating institution that is not financially responsible and fully capable of and willing to fulfil its obligation under the financial agreement. The HEFFA will also require that adequate provisions must be made for the operation, repair, and maintenances of a project at the expense of the participating institution and for the payment of principal of and interest on the bonds. [31]

Tax Exempt Bonds

Revenue bonds issued by HEFFA are not a debt or liability of HEFFA, any municipality, the state, or any political subdivision thereof.[32] Thus, the bonds are not secured by the full faith and credit of the

[24] Section 243.54(13), F.S.
[25] Section 243.54(14), F.S
[26] Section 243.54(7)(a)-(c), F.S
[27] Section 243.54(9), F.S.
[28] Section 243.57, F.S.
[29] Section 243.73(1)(a)-(e), F.S.
[30] Section 243.73(2), F.S.
[31] Section 243.58, F.S.
[32] Section 243.66, F.S.

state, and do not constitute an obligation, either general or special, of the state.[33] However, the bonds may be secured by mortgage or the full faith and credit of a participating institution of higher education or any other lawfully pledged security of a participating institution of higher education.[34] Because the operation and maintenance of a project by the HEFFA or a participating institution constitutes the performance of an essential public function, neither the HEFFA nor a participating institution is required to pay any taxes or assessments upon or in respect of a project or any property acquired or used by the HEFFA or a participating institution.[35]

Effect of Proposed Changes

The bill revises several provisions relating to the makeup and operation of HEFFA, including board appointee terms, public meetings and workshops, quorum and participation at such meetings and workshops, audit deadlines, contract administration, means of defining financial responsibility in financing agreements, and legislative determination's with respect to HEFFA's purpose.

The bill modifies the legislative findings and declarations by clarifying the necessity of the public interest of the provisions enacted as a matter of legislative determination.

The bill specifies the start of a term when the Governor appoints a new member to the Higher Educational Facilities Financing Authority as beginning on the later of the dates that the current term expires or the date the new member was appointed by the Governor.

The bill defines "communications media technology" as telephone conference, video conference, or other communication technology that enables all persons attending a public meeting or workshop can audibly communicate. The bill allows for the Higher Educational Facilitates Financing Authority to conduct a public meeting or workshop by means of communications media technology. For meeting or workshops being conducted via communication media technology, the bill requires the Higher Educational Facilities Financing Authority to provide notice requirements for such meetings and workshops.

This bill also revises the requirement for an action to be taken by the Higher Educational Facilities Financing Authority as a majority of members constitutes a quorum, and the affirmative vote of a majority of members participating in the meeting is necessary.

The bill authorizes HEFFA to contract with an entity as its agent and to assist it with administrative matters.

Additionally, the bill prohibits the HEFFA from entering into a financing agreement with a participating institution for a project, if at the time the agreement is executed, the institution is not financially responsible and not fully capable of and willing to fulfill its obligation under the financing agreement.

The bill revises the timeframe for the Higher Educational Authority to submit a report to the Governor and the presiding offices of each house of the Legislature, to be within six months after the end of its fiscal year.

B. SECTION DIRECTORY:

Section 1: Amends s. 243.51, F.S.; modifying legislative findings and declarations regarding the Higher Education Facilities Financing Act.

Section 2: Amends s. 243.53, F.S.; specifying when the term for a new appointee to the Higher Educational Facilities Financing Authority begins; defining "communications media technology"; revising a requirement for when action may be taken by the Higher Educational Facilities Financing Authority; authorizing the Higher Educational Authority

[33] Section 243.64, F.S.
[34] Section 243.52(5), F.S.
[35] Section 243.70, F.S.

to conduct meetings and workshops by means of communications media technology; providing notice requirements for meetings and workshops.

Section 3: Amends s. 243.54, F.S.; authorizing the Higher Educational Authority to contract with an entity to assist with administrative matters.

Section 4: Amends 243.58, F.S.; prohibiting the Higher Educational Authority from entering into a financing agreement with a participating institution for a project if at the time the agreement is executed certain conditions exist.

Section 5: Amends 243.73, F.S.; revising the timeframe within which the Higher Educational Authority is required to submit a report to the Governor and the Legislature.

Section 6: Provides an effective date of July 1, 2023.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

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:

See Fiscal Comments.

D. FISCAL COMMENTS:

The bill does not appear to have a fiscal impact. Any unforeseen expenses incurred can be absorbed by the Authority's existing resources.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

   None.

2. Other:

   None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

A bill to be entitled

An act relating to higher educational facilities financing; amending s. 243.51, F.S.; modifying legislative findings and declarations regarding the Higher Education Facilities Financing Act; amending s. 243.53, F.S.; specifying when the term for a new appointee to the Higher Educational Facilities Financing Authority begins; defining the term "communications media technology"; revising a requirement for when action may be taken by the authority; authorizing the authority to conduct meetings and workshops by means of communications media technology; providing notice requirements for meetings and workshops; amending s. 243.54, F.S.; authorizing the authority to contract with an entity to assist with administrative matters; amending s. 243.58, F.S.; prohibiting the authority from entering into a financing agreement with a participating institution for a project if at the time the agreement is executed certain conditions exist; amending s. 243.73, F.S.; revising the timeframe within which the authority is required to submit a report to the Governor and the Legislature; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Section 243.51, Florida Statutes, is amended to read:

243.51 Findings and declarations.—It is the purpose of ss. 243.50-243.77 to provide ~~a measure of~~ assistance and an alternative method for enabling private institutions of higher education in ~~of~~ this state to provide the facilities and structures that they need and to enable those institutions to coordinate their budgetary needs with the timing of receipt of tuition revenues. The necessity of the public interest of the provisions hereinafter enacted is hereby declared as a matter of legislative determination.

Section 2. Subsections (2) and (5) of section 243.53, Florida Statutes, are amended to read:

243.53 Creation of Higher Educational Facilities Financing Authority.—

(2) The authority shall consist of five members to be appointed by the Governor, subject to confirmation by the Senate. One member shall be a trustee, director, officer, or employee of an institution of higher education. Of the members first appointed, one shall serve for 1 year, one for 2 years, one for 3 years, one for 4 years, and one for 5 years, and in each case until his or her successor is appointed and has qualified. Thereafter, the Governor shall appoint for terms of 5

years each a member or members to succeed those whose terms expire, beginning on the later of the dates on which the current term expires or the date of appointment by the Governor. The Governor shall fill any vacancy for an unexpired term. A member of the authority is eligible for reappointment. Any member of the authority may be removed by the Governor for misfeasance, malfeasance, or willful neglect of duty. Each member of the authority before entering upon his or her duties shall take and subscribe to the oath or affirmation required by the State Constitution. A record of each oath must be filed in the office of the Department of State and with the authority.

(5)(a) As used in this subsection, the term "communications media technology" means telephone conference, video conference, or other communications technology by which all persons attending a public meeting or workshop may audibly communicate.

(b) A majority of the members of the authority constitutes a quorum, and the affirmative vote of a majority of the members participating in the ~~present at a~~ meeting of the authority is necessary for any action taken by the authority. A vacancy in the membership of the authority does not impair the right of a quorum to exercise all the rights and perform all the duties of the authority. Any action taken by the authority under ss. 243.50-243.77 may be authorized by resolution at any regular or special meeting, and each resolution takes ~~shall take~~ effect

immediately and does ~~need~~ not need to be published or posted. The authority may conduct public meetings and workshops by means of communications media technology. The notice for any such public meeting or workshop must state that the meeting or workshop will be conducted through the use of communications media technology, must specify how persons interested in attending may do so, and must provide a location where communications media technology facilities are available. The participation by an officer, a board member, or any other representative of a member public agency in a meeting or workshop conducted through communications media technology constitutes that individual's presence at such meeting or workshop.

Section 3. Subsection (16) of section 243.54, Florida Statutes, is amended to read:

243.54 Powers of the authority.—The purpose of the authority is to assist institutions of higher education in constructing, financing, and refinancing projects throughout the state and, for this purpose, the authority may:

(16) Contract with an entity as its agent to assist the authority with administrative matters and in screening applications of institutions of higher education for loans under ss. 243.50-243.77 and receive any recommendations the entity may make.

Section 4. Subsection (2) of section 243.58, Florida

Statutes, is amended to read:

243.58 Criteria and requirements.—In undertaking any project under ss. 243.50-243.77, the authority shall be guided by and shall observe the following criteria and requirements:

(2) A financing agreement for a project may not be entered into with a participating institution that is not, at the time such agreement is executed, financially responsible and fully capable of and willing to fulfill its obligations under the financing agreement, including the obligations to make payments in the amounts and at the times required; to operate, repair, and maintain at its own expense the project owned or leased; and to serve the purposes of ss. 243.50-243.77 and any other responsibilities that may be imposed under the financing agreement. In determining the financial responsibility of the participating institution, consideration will ~~must~~ be given to the party's ratio of current assets to current liabilities; net worth; endowments; pledges; earning trends; coverage of all fixed charges; the nature of the project involved; its inherent stability; any guarantee of the obligations by some other financially responsible corporation, firm, or person; means by which the bonds are to be marketed to the public; and other factors determinative of the capability of the participating institution, financially and otherwise, to fulfill its obligations consistently with the purposes of ss. 243.50-243.77.

Section 5. Subsection (1) of section 243.73, Florida

Statutes, is amended to read:

243.73 Reports; audits.—

(1) The authority shall submit to the Governor and the presiding officers of each house of the Legislature, within 6 ~~2~~ months after the end of its fiscal year, a complete and detailed report setting forth:

(a) Its operations and accomplishments.

(b) Its receipts and expenditures during its fiscal year in accordance with the categories or classifications established by the authority for its operating and capital outlay purposes.

(c) Its assets and liabilities at the end of its fiscal year and the status of reserve, special, or other funds.

(d) A schedule of its bonds outstanding at the end of its fiscal year, together with a statement of the principal amounts of bonds issued and redeemed during the fiscal year.

(e) Any other information the authority deems appropriate.

Section 6. This act shall take effect July 1, 2023.

HB 517

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 517 Nursing Education for Military Combat Medics
SPONSOR(S): Rudman and others
TIED BILLS: **IDEN./SIM. BILLS:** SB 274

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Postsecondary Education & Workforce Subcommittee		McDaniel	Kiner
2) Higher Education Appropriations Subcommittee			
3) Education & Employment Committee			

SUMMARY ANALYSIS

The bill creates the “Pathway for Military Combat Medics Act.” The bill expands existing law for awarding postsecondary credit for military training and education courses to include the application of military combat medic training and education toward postsecondary credit (credit) or career education clock hours (clock hours) in accredited nursing education programs.

The bill directs the Articulation Coordinating Committee (ACC) to form a workgroup to develop a process for prioritizing and determining postsecondary course equivalencies, as well as the minimum credit or clock hours that must be awarded in an accredited nursing education program for military training and education required for service in specified positions. The process must be approved by the State University System's Board of Governors (BOG) and the State Board of Education (SBE). Furthermore, it calls for the ACC to approve a list of postsecondary course equivalencies, as well as credit and clock hours awarded for such courses and training, which must be approved by the BOG and SBE in the statewide articulation agreement. Finally, the approved list must be used by state universities, Florida College System (FCS) institutions, and career centers to award credit or clock hours.

The bill revises a primary goal of the Florida Center for Nursing by requiring that, as part of its strategic statewide plan for nursing manpower, to encourage and coordinate partnerships with hospitals that provide opportunities for nursing students to gain clinical experience.

The bill has no state fiscal impact.

This bill takes effect upon becoming law.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Postsecondary Credit for Military Training and Education Courses

The Board of Governors of the State University System (BOG) and the State Board of Education (SBE), in consultation with the Department of Veterans' Affairs, are required to adopt regulations and rules, respectively, to create a system for the uniform award of credit or clock hours based on military training and education. [1]

The Articulation Coordinating Committee (ACC) must approve a prioritized list of postsecondary course equivalencies and the minimum credit or clock hours that must be awarded for courses taken or occupations held by individuals during their service in the military. The list must then be adopted in the statewide articulation agreement by the BOG and SBE. The list must be updated annually.[2]

The current list includes credit or clock hour equivalencies for 46 military occupations, which include Practical Nurse, Combat Medic Specialist, and Special Operations Combat Medic.[3] The American Council on Education (ACE) Military Guide[4] was used as a foundation to determine equivalences, including courses for military occupations. For example, military veterans that served as a Combat Medic Specialist can currently receive a minimum of 29 credit hours for courses in the system such as Medical Emergencies (3 credit hours), Advanced Pre-Hospital Trauma (4 credit hours), and Fundamentals of Nursing (7 credit hours).[5]

State universities, Florida College System (FCS) institutions, and career centers operated by school districts must award credit or clock hours, as applicable, for approved courses and occupations included in the list, if the credit or clock hours are applicable to the student's degree or certificate. Institutions may also grant additional credit or clock hours, if appropriate. Credit awarded on these bases is guaranteed to transfer to other public postsecondary institutions as if the credit was earned at the receiving institution.[6]

Articulation Coordinating Committee

The Commissioner of Education, in consultation with the Chancellor of the State University System, establishes the Articulation Coordinating Committee (ACC), whose primary role is to recommend statewide articulation policies.[7] Specifically, the ACC must monitor articulation between education systems, propose guidelines for articulation agreements, publish lists of general education and common prerequisite courses, establish dual enrollment course equivalencies to high school credit, and annually review the Statewide Articulation Agreement.[8] The Office of K-20 Articulation within the Florida Department of Education provides administrative support to the ACC.[9]

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[1] Section 1004.096, F.S.; *see also* Board of Governors Regulation 6.013 and Rule 6A-10.024, F.A.C.
[2] *Id.*
[3] Articulation Coordinating Committee, *Credit or Clock Hour for Military Experience Equivalency List* (Sept. 2022), *available at* https://www.fldoe.org/core/fileparse.php/5421/urlt/MilExpEquiv.pdf.
[4] American Council on Education, *The ACE Military Guide*, https://www.acenet.edu/Programs-Services/Pages/Credit-Transcripts/Military-Guide-Online.aspx?gclid=CjwKCAiA_vKeBhAdEiwAFb_nrZ8jsFyi7IgkhcHOCpUFzOhUZb8bDy0M_FWMQDEOU_YpBGwrpEPdwhoC5MUQAvD_BwE (last visited Feb. 10, 2023).
[5] Board of Governors, *2023 Legislative Bill Analysis for SB 274*, (Feb. 1, 2023).
[6] Articulation Coordinating Committee, *Credit or Clock Hour for Military Experience Equivalency List* (Sept. 2022), *available at* https://www.fldoe.org/core/fileparse.php/5421/urlt/MilExpEquiv.pdf.
[7] Section 1007.01(3), F.S.
[8] Section 1007.01(3)(a) and (b), F.S.
[9] Section 1007.01(3), F.S.

Statewide Articulation Agreement

The SBE and the BOG are required to enter into a statewide articulation agreement, which the SBE must adopt by rule.[10] The agreement must preserve Florida's "2+2" system of articulation and facilitate the seamless articulation of student credit across and among Florida's educational entities. Specifically, the statewide articulation agreement includes provisions that govern:

- articulation between secondary and postsecondary education;
- the admission of associate in arts degree graduates to the upper division of a state university;
- articulation of career credit to academic credit programs;
- the application of acceleration mechanisms to postsecondary credit; and
- general education requirements.

Florida Postsecondary Nursing Education Programs

Florida's postsecondary education institutions offer a variety of nursing education programs that prepare students for varying levels of licensure. Licensed practical nurse (LPN) clock-hour programs are offered at 28 career centers and 13 FCS institutions, while all 28 FCS institutions offer associate of science in nursing (ASN) and bachelor of science in nursing (BSN) programs.[11] Ten state universities offer 20 pre-licensure nursing education programs. Seventeen of the 30 Independent Colleges and Universities of Florida (ICUF) member institutions offer nursing education programs.[12]

Approved versus Accredited Nursing Education Programs

Educational institutions that wish to conduct a program in the state of Florida for the prelicensure education of professional or practical nurses must meet specified requirements to be approved by the Florida Board of Nursing (BON).[13]

An "approved" nursing education program is a program for the prelicensure education of professional or practical nurses that is conducted in the state of Florida at an educational institution and that is approved and regulated by the state of Florida.[14]

An "accredited" nursing education program is a program for the prelicensure education of professional or practical nurses that is conducted in the United States at an educational institution, whether in Florida, another state, or the District of Columbia, and that is accredited by a specialized nursing accrediting agency that is nationally recognized by the United States Secretary of Education to accredit nursing education programs.[15] Accredited programs do not have to meet requirements related to program application, approval, or submission of annual reports to the BON.[16]

All approved and accredited programs must meet accountability requirements related to graduate passage rate on the National Council of State Boards of Nursing Licensing Examination.

[10] Section 1007.23(1), F.S. *See also* Rule 6A-10.024, F.A.C.
[11] Staff of the Florida House of Representatives, *Legislative Bill Analysis for CS/HB 5201 (2022).*
[12] *Id.*
[13] *See* section. 464.019, F.S. *See also* Florida Board of Nursing, *Education and Training Programs*, https://floridasnursing.gov/education-and-training-programs/ (last visited Feb. 10, 2023).
[14] Section 464.003(4), F.S. The program must be approved according to the requirements established in s. 464.019, F.S. *Id.*
[15] Section 464.003(1), F.S. Eligible nursing associations are: Accreditation Commission for Education in Nursing (ACEN), Commission on Collegiate Nursing Education (CCNE)) or National League for Nursing Commission for Nursing Education Accreditation (NLN CNEA). Florida Board of Nursing, *What is the difference between an "approved" and an "accredited" prelicensure nursing education program in Florida?* https://floridasnursing.gov/help-center/what-is-the-difference-between-an-approved-and-an-accredited-pre-licensure-nursing-education-program-in-florida/ (last visited Feb. 10, 2023).
[16] Section 464.019(9), F.S.

All approved nursing programs, except those specifically excluded,[17] must seek accreditation within five years of enrolling the program's first students.[18]

Florida Center for Nursing

The Florida Center for Nursing (center) was established by the Legislature in 2001, to address the issues of supply and demand for nursing, including the recruitment, retention, and utilization of nurse workforce resources.[19] The center's primary goals are to:[20]

- Develop a strategic statewide plan for nursing manpower in this state by:
  - Conducting a statistically valid biennial data-driven gap analysis of the supply and demand of the healthcare workforce. Demand must align with the Labor Market Estimating Conference.
  - Developing recommendations to increase nurse faculty and clinical preceptors, support nurse faculty development, and promote advanced nurse education.
  - Developing best practices in the academic preparation and continuing education needs of qualified nurse educators, nurse faculty, and clinical preceptors.
  - Collecting data on nurse faculty, employment, distribution, and retention.
  - Piloting innovative projects to support the recruitment, development, and retention of qualified nurse faculty and clinical preceptors.
  - Encouraging and coordinating the development of academic-practice partnerships to support nurse faculty employment and advancement.
  - Developing distance learning infrastructure for nursing education and advancing faculty competencies in the pedagogy of teaching and the evidence-based use of technology, simulation, and distance learning techniques.
- Enhance and promote recognition, reward, and renewal activities for nurses in the state by:
  - Promoting nursing excellence programs such as magnet recognition by the American Nurses Credentialing Center.
  - Proposing and creating additional reward, recognition, and renewal activities for nurses.
  - Promoting media and positive image-building efforts for nursing.

Effect of Proposed Changes

Postsecondary Credit for Military Training and Education Courses

HB 517 creates the "Pathway for Military Combat Medics Act." The bill amends s. 1004.096, F.S., to expand current law to apply military combat medic training and education toward postsecondary credit (credit) or career education clock hours (clock hours) in accrediting nursing education programs. The bill establishes a process similar to those established for the award of postsecondary credit for military training and education and for law enforcement training.

The bill requires the Articulation Coordinating Committee (ACC) to, by July 15, 2023, convene a workgroup to establish a process for determining postsecondary course equivalencies and the minimum credit or clock hours that must be awarded in an accredited nursing education program for military training and education required for service as an Army Combat Medic Specialist, a Navy or Fleet Marine Force Hospital Corpsman, an Air Force or Space Force Aerospace Medical Service Technician, or a Coast Guard Health Services Technician.

The workgroup must consist of the following 13 members:

- The chair of the ACC, or his or her designee, serving as chair;
- Four members representing academic affairs administrators and faculty from state universities, appointed by the chair of the Board of Governors (BOG);

[17] Excluded institutions are those exempt from licensure by the Commission of Independent Education under s. 1005.06(1), F.S. Section 464.019(11)(d), F.S.
[18] Section 464.019(11)(a)-(d), F.S.
[19] Chapter 2001-277, s. 97, Laws of Fla., and s. 464.0195, F.S.
[20] Section 464.0195, F.S.

- Four members representing academic affairs administrators and faculty from Florida College System (FCS) institutions, appointed by the chair of the State Board of Education (SBE);
- Two members representing faculty from career centers, appointed by the SBE; and
- Two members representing veterans, appointed by the executive director of the Florida Department of Veterans Affairs.

The Office of K-20 Articulation must provide administrative support for the workgroup.

The workgroup must ensure that the award of credit or clock hours does not impair an accredited program's ability to comply with requirements relating to the state approval of nursing education programs. The workgroup must provide recommendations regarding the determination process for awarding credit or clock hours to the BOG and the SBE by December 1, 2023, for approval at each board's next meeting that allows for adequate public notice.

Upon the BOG and the SBE approval of the workgroup's process recommendations, the ACC must facilitate a review of military training and education for the specified military occupations to determine postsecondary course equivalencies and the minimum credit or clock hours that must be awarded.

Within one year after BOG and SBE approval of the ACC workgroup recommended process, the ACC must approve a prioritized list of postsecondary course equivalencies and the minimum credit or clock hours that must be awarded in an accredited program for such military training and education. The list must then be adopted in the statewide articulation agreement by the BOG and SBE at the next meeting of each board allowing for adequate public notice. The list must be updated annually.

B. SECTION DIRECTORY:

Section 1. Provides the title, "Pathway for Military Combat Medics Act".

Section 2. Amending s. 464.0195, F.S.; revising a primary goal of the Florida Center for Nursing to provide that development of a statewide plan for nursing manpower must include the encouragement and coordination of the development of partnerships with hospitals which provide opportunities for nursing students to obtain clinical experience.

Section 3. Amending s. 1004.096, F.S.; defining the term "accredited program"; requiring that the Articulation Coordinating Committee convene a workgroup to establish a process for determining postsecondary course equivalencies and the minimum postsecondary credit or career education clock hours that must be awarded in accredited nursing education programs for military training and education required for service in specified positions; providing for the composition of and the provision of administrative support to the workgroup; requiring that the workgroup ensure that the award of credit for military training and education does not impair a nursing education program's ability to comply with requirements relating to the approval of nursing education program; requiring the workgroup to provide, by a specified date, recommendations regarding the determination process to the Board of Governors and State Board of Education for approval; requiring that, upon approval of the recommendations, the Articulation Coordinating Committee facilitate the review of military training and education received by individuals who served in specified positions and the determination of minimum postsecondary credit or career education clock hours awarded for specified military training and education; requiring that the Articulation Coordinating Committee, within a specified timeframe and annually thereafter, approve a prioritized list of postsecondary course equivalencies and the minimum postsecondary credit or career education clock hours that must be awarded for such training and education; requiring the Board of Governors and State Board of Education to adopt the prioritized list; requiring that the minimum postsecondary credit or career education clock hours be delineated in a required statewide articulation agreement; requiring state universities, Florida College System institutions, and career centers to award postsecondary credit or career education clock hours in nursing education programs based on the prioritized list; authorizing the award of additional

postsecondary credit or career education clock hours; providing that such postsecondary credit or career education clock hours are transferable.

Section 4. Provides the act shall take effect upon becoming law.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

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:

Should the workgroup process result in identifying additional equivalencies for military training and experience, students may be eligible to receive postsecondary credit toward an accredited pre-licensure nursing program. Credits from this experience may save the student time and the cost of receiving a nursing degree at a state university.[21]

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

   None.

2. Other:

   None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

[21] Board of Governors, *2023 Legislative Bill Analysis for SB 274* (Feb 1, 2023).

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

A bill to be entitled

An act relating to nursing education for military combat medics; providing a short title; amending s. 464.0195, F.S.; revising a primary goal of the Florida Center for Nursing to provide that development of a statewide plan for nursing manpower must include the encouragement and coordination of the development of partnerships with hospitals which provide opportunities for nursing students to obtain clinical experience; amending s. 1004.096, F.S.; defining the term "accredited program"; requiring that the Articulation Coordinating Committee convene a workgroup to establish a process for determining postsecondary course equivalencies and the minimum postsecondary credit or career education clock hours that must be awarded in accredited nursing education programs for military training and education required for service in specified positions; providing for the composition of and the provision of administrative support to the workgroup; requiring that the workgroup ensure that the award of credit for military training and education does not impair a nursing education program's ability to comply with requirements relating to the approval of nursing education programs; requiring the workgroup to provide, by a specified

date, recommendations regarding the determination process to the Board of Governors and State Board of Education for approval; requiring that, upon approval of the recommendations, the Articulation Coordinating Committee facilitate the review of military training and education received by individuals who served in specified positions and the determination of minimum postsecondary credit or career education clock hours awarded for specified military training and education; requiring that the Articulation Coordinating Committee, within a specified timeframe and annually thereafter, approve a prioritized list of postsecondary course equivalencies and the minimum postsecondary credit or career education clock hours that must be awarded for such training and education; requiring the Board of Governors and State Board of Education to adopt the prioritized list; requiring that the minimum postsecondary credit or career education clock hours be delineated in a required statewide articulation agreement; requiring state universities, Florida College System institutions, and career centers to award postsecondary credit or career education clock hours in nursing education programs based on the prioritized list; authorizing the award of additional postsecondary credit or career education

clock hours; providing that such postsecondary credit or career education clock hours are transferable; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. This act may be cited as the "Pathway for Military Combat Medics Act."

Section 2. Paragraph (a) of subsection (2) of section 464.0195, Florida Statutes, is amended to read:

464.0195 Florida Center for Nursing; goals.—

(2) The primary goals for the center shall be to:

(a) Develop a strategic statewide plan for nursing manpower in this state by:

1. Conducting a statistically valid biennial data-driven gap analysis of the supply and demand of the health care workforce. Demand must align with the Labor Market Estimating Conference created in s. 216.136. The center shall:

a. Establish and maintain a database on nursing supply and demand in the state, to include current supply and demand.

b. Analyze the current and future supply and demand in the state and the impact of this state's participation in the Nurse Licensure Compact under s. 464.0095.

2. Developing recommendations to increase nurse faculty and clinical preceptors, support nurse faculty development, and

promote advanced nurse education.

3. Developing best practices in the academic preparation and continuing education needs of qualified nurse educators, nurse faculty, and clinical preceptors.

4. Collecting data on nurse faculty, employment, distribution, and retention.

5. Piloting innovative projects to support the recruitment, development, and retention of qualified nurse faculty and clinical preceptors.

6. Encouraging and coordinating the development of academic-practice partnerships, including partnerships with hospitals which provide opportunities for nursing students to obtain clinical experience, to support nurse faculty employment and advancement.

7. Developing distance learning infrastructure for nursing education and advancing faculty competencies in the pedagogy of teaching and the evidence-based use of technology, simulation, and distance learning techniques.

Section 3. Subsection (3) is added to section 1004.096, Florida Statutes, to read:

1004.096 Postsecondary credit for military training and education courses.—

(3)(a) For purposes of this subsection, the term "accredited program" has the same meaning as in s. 464.003.

(b) By July 15, 2023, the Articulation Coordinating

Committee shall convene a workgroup that is responsible for establishing a process for determining postsecondary course equivalencies and the minimum postsecondary credit or career education clock hours that must be awarded in an accredited program for military training and education required for service as an Army Combat Medic Specialist, a Navy or Fleet Marine Force Hospital Corpsman, an Air Force or Space Force Aerospace Medical Service Technician, or a Coast Guard Health Services Technician.

1. The composition of the workgroup and the provision of administrative support to the workgroup must be as provided in paragraphs (2)(a) and (b). The workgroup shall ensure that the award of postsecondary credit or career education clock hours does not impair an accredited program's ability to comply with the requirements identified in s. 464.019.

2. The workgroup shall provide its recommendations regarding the process for awarding postsecondary credit or career education clock hours to the Board of Governors and the State Board of Education by December 1, 2023, for approval at the next meeting of each board to allow for adequate public notice.

3.a. Upon approval of the workgroup's recommendations by the Board of Governors and the State Board of Education, the Articulation Coordinating Committee shall facilitate the review of the military training and education received by individuals who served as an Army Combat Medic Specialist, a Navy or Fleet

Marine Force Hospital Corpsman, an Air Force or Space Force Aerospace Medical Service Technician, or a Coast Guard Health Services Technician for postsecondary course equivalencies and the minimum postsecondary credit or career education clock hours that must be awarded for that training and education.

b. Within 1 year after such approval, the Articulation Coordinating Committee shall approve a prioritized list of postsecondary course equivalencies, and the minimum postsecondary credit or career education clock hours that must be awarded in an accredited program for such military training and education. The list must be updated annually. The Board of Governors and the State Board of Education shall adopt the list approved by the Articulation Coordinating Committee at their next respective meetings. For the purpose of statewide application, postsecondary course equivalencies and the minimum postsecondary credit or career education clock hours that must be awarded in an accredited program for such military training and education must be delineated by the State Board of Education and the Board of Governors in the statewide articulation agreement required by s. 1007.23(1).

4. State universities, Florida College System institutions, and career centers shall award postsecondary credit or career education clock hours for such military training and education based on the list adopted pursuant to sub-subparagraph 3.b. if the credit or career education clock

hours are applicable toward the student's degree or certificate and may award additional postsecondary credit or career education clock hours as appropriate. Postsecondary credit or career education clock hours awarded under this subsection are transferable from one state university, Florida College System institution, or career center to another.

Section 4. This act shall take effect upon becoming a law.

PCS for HB 679

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: PCS for HB 679 Agreements of State Colleges and State Universities with Foreign Entities
SPONSOR(S): Postsecondary Education & Workforce Subcommittee; Canady
TIED BILLS: **IDEN./SIM. BILLS:** SB 846

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Postsecondary Education & Workforce Subcommittee		Dixon	Kiner

SUMMARY ANALYSIS

According to a United States Senate Committee report, American taxpayers contribute over $150 billion each year to scientific research in the United States through entities such as the National Science Foundation, the National Institutes of Health, and the Department of Energy. Florida and other states contribute additional millions in state tax dollars to support scientific discovery. As a result, the United States of America has some of the most robust and scientifically advanced research institutions in the world. These institutions, their talented researchers, and a culture of openness and collaboration have attracted researchers and built collaborative networks across the world. Florida's state universities and state colleges also facilitate open and publicly accessible research and scholarly activities. Federal and state funding agencies share concerns regarding the protection of federal and state investments in research from undue foreign influence. Additional concerns arise when those involved in federal or state funded research projects fail to disclose outside activities or financial interest, which may adversely affect the integrity of the research and research institution.

Beginning July 1, 2023, the bill prohibits a state university or state college, authorized to expend state-appropriate funds, from accepting any grant from or participating in any agreement or partnership with any college, university, or entity that is based in or controlled by a foreign country of concern unless the state university or state college, has received approval from the Board of Governors (BOG) or the State Board of Education (SBE). The agreement must otherwise be legal and deemed by the BOG or SBE, as applicable, to be valuable to students, the state university or state college, and not detrimental to the safety or security of the United States or United States residents. Should a state university or state college enter into a partnership or agreement with a foreign country of concern or an entity that is located in or controlled by a foreign country of concern without approval, then the BOG or SBE will exercise its authority to sanction the state university or state college and may withhold additional performance funding. The foreign countries of concern include: People's Republic of China, the Russian Federation, the Islamic Republic of Iran, the Democratic People's Republic of Korea, the Republic of Cuba, the Venezuelan regime of Nicolás Maduro, and the Syrian Arab Republic.

The bill also prohibits a state university, state college, or any employee or representative of such entities, from soliciting or accepting a gift – regardless of value – from a foreign country of concern, entity located in or controlled by a foreign country of concern, or associated individuals or employees. Acceptance of such gift will subject the state college or university to a civil penalty, enforced by the BOG or SBE. Pursuant to current law, these and other institutions of higher education must disclose foreign gifts and contracts from non-foreign countries of concern that are valued at $50,000 or more.

Beginning August, 1, 2024, the bill contains reporting requirements and penalties for non-compliance.

The bill does not appear to have a fiscal impact.

The bill has an effective date of July 1, 2023.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

According to a United States Senate Committee report, American taxpayers contribute over $150 billion each year to scientific research in the United States through entities such as the National Science Foundation, the National Institutes of Health, and the Department of Energy.[1] Florida and other states contribute additional millions in state tax dollars to support scientific discovery. As a result, the United States of America has some of the most robust and scientifically advanced research institutions in the world. These institutions, their talented researchers, and a culture of openness and collaboration have attracted researchers and built collaborative networks across the world.

Board of Governors

The Board of Governors (BOG) of the State University System (SUS) oversees the performance of state university boards of trustees in the enforcement of laws, rules, and regulations. The BOG is also responsible for operating, regulating, controlling and being fully responsible for the management of the SUS. However, pursuant to Florida's Constitution, the BOG's management is subject to the powers of the Legislature to appropriate for the expenditure of funds.[2] The state university presidents are responsible for the accuracy of the information and data reported to the BOG.[3] In addition, like other state agencies, the BOG has an Office of Inspector General (IG) charged with promoting accountability, financial integrity and efficiency required by law. The BOG IG is also charged with detecting fraud and abuse within state universities.

For state university board of trustees that are in noncompliance with any law or BOG regulation or audit recommendation, the BOG may initiate any of the following actions:[4]

- Withhold state funds, discretionary grant funds, discretionary lottery funds, or other funds appropriated to the BOG, until compliance is met.
- Declare the state university ineligible for competitive grants disbursed by the BOG.
- Require monthly or periodic reporting on the noncompliance situation until it is remedied.
- Report to the Legislature that the state university is unwilling or unable to comply with the law or BOG's rule or regulation and will recommend action to be taken by the Legislature.

State Board of Education

The State Board of Education (SBE) oversees the performance of early learning coalitions, district school boards, and Florida College System institution boards of trustees in enforcement of all laws and rules. The SBE has the authority to request and receive information, data, and reports from early learning coalitions, school districts, and Florida College System institutions. For Florida College System institutions, the president of the institution is responsible for the accuracy of the information and data reported to the state board.[5]

With respect to allegations of non-compliance with law or SBE rule, the Commissioner of Education (Commissioner) may investigate, determine probable cause, and report findings to the SBE. In addition,

[1] United States Senate Permanent Subcommittee on Investigations, Committee on Homeland Security and Governmental Affairs, *Threats to the U.S. Research Enterprise: China's Talent Recruitment Plans*, Staff Report, United States Senate (2019), *available at* https://www.hsgac.senate.gov/wp-content/uploads/imo/media/doc/2019-11-18%20PSI%20Staff%20Report%20-%20China's%20Talent%20Recruitment%20Plans%20Updated2.pdf
[2] FLA. CONST., Art. IX, s. 7(d).
[3] Section 1008.322(1) and (2), F.S.
[4] Section 1008.322(5)(a) – (d), F.S.
[5] Section 1008.32(1), F.S.

the Commissioner must report to the SBE any finding by the Auditor General that an institution is acting without statutory authority or contrary to general law.[6]

Relationships with Foreign Entities

Florida's state universities[7] and state colleges[8] facilitate open and publicly accessible research and scholarly activities, both domestically and internationally. These research endeavors can be externally funded by taxpayers through various entities, including granting agencies, or governments, as well as industry agreements, or private foundations. Federal and state funding agencies share concerns regarding the protection of federal and state investments in research from undue foreign influence. Additional concerns arise when those involved in federal or state funded research projects fail to disclose outside activities or financial interest, which may adversely affect the integrity of the research and research institution.

Recently, it was discovered that researchers at state research institutions had undisclosed relationships with foreign research institutions from a foreign country of concern.[9] The undisclosed relationships resulted in an investigation conducted by the Florida House of Representatives in 2020. During the investigation, the investigating committee ascertained that Florida state research grants often lacked requirements deemed reasonably necessary to ensure research integrity. As a result, the Legislature required greater disclosure of foreign gifts, contracts, and support for public entities, scrutiny of grant applicants and vendors of goods and services with certain foreign connections, and thorough scrutiny of foreign applicants for research positions and of foreign travel and activities of employees of major research institutions.[10]

Present Situation

Reporting Foreign Gifts and Contracts with Institutions of Higher Education

Universities' international partnerships and collaborations have contributed significantly to academic and scientific progress and innovation. Federal and state funding agencies have concerns regarding failure to disclose foreign relationships and activities, which could not only jeopardize funding eligibility, but may compromise the United States national security and weaken the United States' competitiveness. Current federal and state laws mandate specific requirements for reporting receipts of gifts or grants from foreign entities.

Federal and State Requirements

The Higher Education Act of 1965 requires institutions of postsecondary education to report on January 31 and July 31, each year, all foreign gifts and grants received from or contracts entered into with a value of $250,000 or more.[11] Between 2018 and 2021, the U.S. Department of Education (USDOE) carefully scrutinized the reporting program.[12] USDOE discovered billions of dollars of unreported foreign gifts from many of the best-funded institutions.[13]

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[6] Section 1008.32(2), F.S.
[7] Section 288.860(1)(f), F.S. defines "state university" to mean any state university under the supervision of the Board of Governors, including any entity under the control of or established for the benefit of a state university.
[8] Section 288.860(1)(e), F.S. defines "state college" to mean any postsecondary education institution under the supervision of the State Board of Education, including any entity under the control of or established for the benefit of a state college.
[9] Section 288.860(1)(a), F.S. defines "foreign country of concern" to mean the People's Republic of China, the Russian Federation, the Islamic Republic of Iran, the Democratic People's Republic of Korea, the Republic of Cuba, the Venezuelan regime of Nicolás Maduro, or the Syrian Arab Republic, including any agency of or any other entity under significant control of such foreign country of concern.
[10] Sections 288.860, F.S. and 1010.25, F.S.
[11] *See* 20 U.S.C. § 1011f.
[12] Institutional Compliance with Section 117 of the Higher Education Act of 1965, USDOE Office of General Counsel (Oct. 2020), *available at* https://www2.ed.gov/policy/highered/leg/institutional-compliance-section-117.pdf.
[13] *Id*.

In recognition of USDOE's discovery, the Florida Legislature passed legislation that was later enacted to require institutions of higher education[14] to semiannually report, each January 31 and July 31, all foreign gifts[15] or contracts,[16] valued at $50,000 or more, received directly or indirectly[17] from the same foreign source,[18] including its subsidiaries and affiliates, alone or collectively in the fiscal year. The institution of higher education may consolidate its report with all of its affiliate organizations.[19]

State universities must disclose reportable foreign gifts and contracts to the BOG.[20] All other institutions of higher education must disclose their reportable foreign gifts and contracts to the SBE.[21]

For each gift subject to the reporting requirement, the disclosure to the BOG or SBE must include:[22]

- The amount of the gift and the date it was received.
- The contract start and end date if the gift is a contract.
- The name of the foreign source and, if not a foreign government, the country of citizenship, if known, and the country of principal residence or domicile of the foreign source.
- A copy of a gift agreement between the foreign source and the institution of higher education, signed by the foreign source and the chief administrative officer of the institution of higher education, or their respective designees. The agreement must include a detailed description of the purpose for which the gift will be used by the institution of higher education, the identification of the persons for whom the gift is explicitly intended to benefit, and any applicable conditions, requirements, restrictions, or terms made a part of the gift regarding the control of curricula, faculty, student admissions, student fees, or contingencies placed upon the institution of higher education to take a specific public position or to award an honorary degree. If an agreement includes certain information protected from disclosure,[23] then an abstract and redacted copy providing all required information may be submitted in lieu of a copy of the agreement.

The Inspector General of the BOG and the Inspector General of the FDOE, is required to randomly inspect or audit at least five percent of the total number of gifts disclosed by, or gift agreements received from, institutions of higher education during the previous year for the purpose of determining an institution's compliance with the reporting requirements.[24]

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[14] Section 1010.25(g), F.S., defines "institution of higher learning" to mean a state university, an entity listed in subpart B of part II of chapter 1004 that has its own governing board, a Florida College System institution, an independent nonprofit college or university that is located in and chartered by the state and grants baccalaureate or higher degrees, any other institution that has a physical presence in the state and is required to report foreign gifts or contracts pursuant to 20 U.S.C. s. 1011f, or an affiliate organization of an institution of higher education.

[15] Section 1010.25(f), F.S., defines "gifts" to mean any contract, gift, grant, endowment, award, or donation of money or property of any kind, or any combination thereof, including a conditional or an unconditional pledge of such contract, gift, grant, endowment, award, or donation. For purposes of s. 1010.25(f), F.S., the term "pledge" means a promise, an agreement, or an expressed intention to give a gift.

[16] Section 1010.25(b), F.S. defines "contract" to mean any agreement for the acquisition by purchase, lease, or barter or property or services by the foreign source, for the direct benefit or use of either of the parties, and any purchase, lease, or barter of property or services from a foreign country of concern.

[17] For the purpose of s. 1010.25(1), F.S., the term "indirectly" a gift received from a foreign source through an intermediary shall be considered an indirect gift to the institution of higher education.

[18] Section 1010.25(e), F.S. defines "foreign source" to mean a foreign government or an agency of a foreign government; a legal entity, governmental or otherwise, created solely under the laws of a foreign state or states; an individual who is not a citizen or a national of the United States or a territory or protectorate of the United States; or an agent, including a subsidiary or an affiliate of a foreign legal entity, acting on behalf of a foreign source.

[19] Section 101.25(1)(a), F.S. defines "affiliated organization" to mean any entity under the control of or established for the benefit of an organization required to report under this section, including a direct-support organization.

[20] Section 1010.25(2)(a), F.S. and Subpart B, Part II, ch. 1004, F.S.

[21] Section 1010.25(2)(b), F.S. and Subpart B, Part III, ch. 1004, F.S.

[22] Section 1010.25(3), information reporting is required unless otherwise deemed confidential under federal law having no exemption applicable to reporting.

[23] Section 1004.22, F.S.

[24] Section 1010.25(3), F.S.

In 2022, the Office of Inspect General and Director of Compliance (OIGC) conducted the required compliance review of foreign gifts. The review consisted of 689 foreign gift disclosures received from eight SUS Institutions of Higher Education (IHE)[25] for the 2021-2022 Fiscal Year (FY). [26]

The review found that the total amount of foreign gifts reported for the 2021-2022 FY equaled approximately $116.6 million. The foreign gifts reported included contracts for goods, services, or clinical research trials; awards, pledges, or donations of money or property; and student sponsorships. The countries with the most reported gifts[27] were received from Germany (80 gifts), Switzerland (77 gifts), United Kingdom (59 gifts), Japan (51 gifts) and Ireland (37 gifts).

Twenty-one, or 3.05 percent, of the foreign gifts reported came from foreign countries of concerns. There were 19 reported gifts from the People's Republic of China and two gifts reported from Russia, which equaled approximately $5.2 million or 4.47 percent of the total amount reported for all foreign gifts. The categorical information on the purpose, volume, and related values of the reported foreign gifts from the People's Republic of China and Russia are shown in the table below.

Gift Purpose	Total Number	Cumulative Monetary Value
Goods or Services Purchased from a Private Company	9	$887,900
Agreements for Donation of Artwork	1	$700,000
Collaborative Degree Programs with Chinese Universities	3	$1,922,840
Research Agreements with Chinese Companies and Universities	3	$944,846
Clinical Trial Agreements with Chinese Companies	5	$699,013

Other findings disclosed in the report included discrepancies between aggregate amount reporting and individualized reporting, reports failed to include proper and/or correct gift agreements, incorrectly executed pledge agreements, and challenges as to certain monetary reporting issues, such as those related to royalties, education agreements, research or clinical trials.[28]

Institutions of higher education that fail to report a reportable gift or contract within 60 days after the reporting deadline, are subject to penalties imposed by the SBE or the BOG.[29] Additionally, an institution of higher education that knowingly, willfully, or negligently fails to disclose the required information in its report to the BOG or FDOE, is subject to a civil penalty of 105 percent of the amount of the undisclosed gift or contract. The penalty must be paid from nonstate funds. The recovered funds must be deposited into the General Revenue Fund. The BOG or the SBE, as applicable, may administratively enforce the civil penalty as an administrative penalty. In lieu of the BOG or SBE, the Attorney General or the Chief Financial Officer may bring a civil action to enforce the penalty. If such action is successful, the Attorney General or the Chief Financial Officer, is entitled to reasonable attorney fees and costs.[30]

A whistle-blower who reports an undisclosed foreign gift or contract to the appropriate inspector general may also report the gift to the Attorney General or the Chief Financial Officer and retain statutory whistle-blower protection.[31] Such whistle-blower is entitled to a reward of 25 percent of any penalty recovered. The Chief Financial Officer is authorized to make expenditures from the recovery to pay the

[25] The eight institutions included Florida Agricultural and Mechanical University (FAMU), Florida Atlantic University (FAU), Florida International University (FIU), Florida State University (FSU), Moffitt, University of Central Florida (UCF), University of Florida (UF), and University of South Florida (USF).
[26] State University System of Florida, Board of Governors, *Compliance Review: Foreign Gifts Inspections, Office of Inspector General and Director of Compliance*, Project No. 23-002, (Dec. 15, 2022).
[27] The gifts received from the top five countries accounted for approximately 44 percent of the disclosed foreign gifts.
[28] State University System of Florida, Board of Governors, *supra* note 26.
[29] Section 1010.25(4), F.S., see s. 1008.32, F.S defining the State Board of Education oversight enforcement authority, and s. 1008.332, F.S. defining the Board of Governors oversight enforcement authority.
[30] Section 1010.25(a) and (b), F.S.
[31] Section 112.3188, F.S.

reward. The whistle-blower may designate an intermediary to receive the reward to preserve whistle-blower confidentiality.[32]

Any information disclosed concerning gifts or contracts from foreign sources to institutions of higher education is not confidential or exempt from public record requirements, unless it is a trade secret pursuant to statute or information generated or discovered during the course of research conducted by state universities.[33]

Effect of the Proposed Changes

Beginning July 1, 2023, the bill prohibits a state university or state college, authorized to expend state-appropriated funds, from accepting any grant from or participate in any agreement or partnership with any college, university, or entity that is based in or controlled by a foreign country of concern unless:

- The state university has received approval by the Board of Governors to enter into an agreement with a foreign country of concern or an entity located in or controlled by a foreign country of concern and such agreement is deemed by the Board of Governors to be valuable to students and the state university and is not detrimental to the safety or security of the United States or its residents.
- A state college has received approval by the State Board of Education to enter into an agreement with a foreign country of concern or an entity located in or controlled by a foreign country of concern and such agreement is deemed by the State Board of Education to be valuable to students and the state university and is not detrimental to the safety or security of the United States or its residents.

Beginning July 1, 2023, the bill requires the Board of Governors to sanction a state university that enters into a partnership or agreement with a foreign country of concern or an entity that is located in or controlled by a foreign country of concern without approval from the board.

The bill also provides that if a state university enters into an agreement with a foreign country of concern or an entity that is located in or controlled by a foreign country of concern without approval from the Board of Governors then the board may withhold additional performance funding for the state university. The funds must be deposited into the General Revenue Fund. The Board of Governors may administratively enforce the withholding of the performance funding.

Beginning July 1, 2023, the bill requires the State Board of Education to sanction a state college that enters into a partnership or agreement with a foreign country of concern or an entity that is located in or controlled by a foreign country of concern without approval from the state board.

This bill also provides that if a state college enters into an agreement with a foreign country of concern or an entity that is located in or controlled by a foreign country of concern without approval from the State Board of Education then the board may withhold additional performance funding for the state college. The funds must be deposited into the General Revenue Fund. The State Board of Education may administratively enforce the withholding of the performance funding.

By August 1, 2024, the bill requires the Board of Governors and the Department of Education, respectively, to annually submit a report to the Governor, the President of the Senate, and the Speaker of the House of Representatives relating to agreements of state universities and state colleges, respectively, with foreign entities. The report must be submitted by August 1, each year and at a minimum, the reports must include the following information for the previous fiscal year:

- Data reflecting any grant program, agreement, partnership, or contract between a state university or state college and any college, university, or entity that is based in or controlled by a foreign country and the date it is expected to terminate.
- Data reflecting any office, campus, or physical location used or maintained by a state university or state college in a foreign country.

[32] Section 1010.25(5)(c), F.S.
[33] Section 1010.25(6), F.S.

The bill also requires that a state university or state college, or any employee or representative of a state university or state college, may not solicit or accept any gift, including any physical object, loan, reward, promise of future employment, favor, or service, from a foreign country of concern or an entity that is located in or controlled by a foreign country of concern; or a person associated with or employed by a foreign country of concern or an entity that is located in or controlled by a foreign country of concern. Pursuant to current law, these and other institutions of higher education must disclose foreign gifts and contracts from non-foreign countries of concern that are valued at $50,000 or more.

The bill also prohibits a state university or state college, or any employee or representative of a state university or state college, from soliciting or accepting any gift, including any physical object, loan, reward, promise of future employment, favor, or service, from:

- A foreign country of concern or an entity that is located in or controlled by a foreign country of concern.
- A person associated with or employed by a foreign country of concern or an entity that is located in or controlled by a foreign country of concern.

The bill also provides for the Board of Governors and the State Board of Education to adopt these rules and regulations.

The bill defines the following terms with respect to international cultural agreements involving international affairs:

- Partnership means a faculty or student exchange program, a study abroad program, an articulation program, a recruiting program or a dual degree program.
- Agreement means a written statement of mutual interest in academic or research collaboration.

The bill also defines the following terms with respect to foreign gifts and contracts:

- State College means any postsecondary education institution under the supervision of the State Board of Education, including any entity under the control of or established for the benefit of a state college.
- State University means any state university under the supervision of the Board of Governors, including any entity under the control of or established for the benefit of a state university.

B. SECTION DIRECTORY:

Section 1: Amends s. 288.860, F.S.; defining terms; prohibiting state universities and state colleges from accepting grants or participating in agreements with a foreign country of concern unless specified conditions are met; authorizing state universities to enter into agreements with a foreign country of concern if such agreement is approved by the Board of Governors and specified requirements are met; authorizing the board to sanction and to withhold performance funding from a state university for entering into an unauthorized foreign agreement; authorizing a state college to enter into an agreement with a foreign country of concern if such agreement is authorized by the State Board of Education and specified requirements are met; authorizing the state board to sanction and to withhold performance funding from a state college for entering into an unauthorized agreement with a foreign country of concern; requiring each state university and state college to annually submit specified information to the Board of Governors and Department of Education if certain conditions are met; requiring the Board of Governors and the department to annually submit a report to the Governor and the Legislature; providing requirements for the report; requiring the Board of Governors and the State Board of Education to adopt regulations and rules, respectively.

Section 2: Amends s. 286.101, F.S.; revising and defining terms; prohibiting a state university or college from soliciting or accepting a gift from a foreign country of concern; requiring the Board of Governors and the State Board of Education to adopt regulations and rules, respectively.

Section 3: Provides an effective date.

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:

See fiscal comments.

D. FISCAL COMMENTS:

The bill has a fiscal impact related to state colleges and state universities being prohibited from accepting gifts from, and entering into partnerships or agreements with foreign countries of concern.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

   None.

2. Other:

   None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

Not applicable.

A bill to be entitled

An act relating to agreements of state colleges and state universities with foreign entities; amending s. 288.860, F.S.; defining terms; prohibiting state universities and state colleges from accepting grants or participating in agreements with a foreign country of concern unless specified conditions are met; authorizing state universities to enter into agreements with a foreign country of concern if such agreement is approved by the Board of Governors and specified requirements are met; authorizing the board to sanction and to withhold performance funding from a state university for entering into an unauthorized foreign agreement; authorizing a state college to enter into an agreement with a foreign country of concern if such agreement is authorized by the State Board of Education and specified requirements are met; authorizing the state board to sanction and to withhold performance funding from a state college for entering into an unauthorized agreement with a foreign country of concern; requiring each state university and state college to annually submit specified information to the Board of Governors and Department of Education if certain conditions are met; requiring the Board of Governors and the department to annually

submit a report to the Governor and the Legislature; providing requirements for the report; requiring the Board of Governors and the State Board of Education to adopt regulations and rules, respectively; amending s. 286.101, F.S.; revising and defining terms; prohibiting a state university or state college from soliciting or accepting a gift from a foreign country of concern; requiring the Board of Governors and the State Board of Education to adopt regulations and rules, respectively; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Section 288.860, Florida Statutes, is amended to read:

288.860 International cultural agreements.—

(1) As used in this section, the term:

(a) "Foreign country of concern" means the People's Republic of China, the Russian Federation, the Islamic Republic of Iran, the Democratic People's Republic of Korea, the Republic of Cuba, the Venezuelan regime of Nicolás Maduro, or the Syrian Arab Republic, including any agency of or any other entity under significant control of such foreign country of concern.

(b) "Partnership" means a faculty or student exchange program, a study abroad program, an articulation program, a recruiting program, or a dual degree program.

(c) "Political subdivision" has the same meaning as in s. 1.01(8) and includes any entity under the control of or established for the benefit of the political subdivision.

(d) ~~(c)~~ "Public school" means any education institution under the supervision of a school district and any entity under the control of or established for the benefit of a public school or school district.

(e) ~~(d)~~ "State agency" means any agency or unit of state government created or established by law and any entity under the control of or established for the benefit of a state agency.

(f) ~~(e)~~ "State college" means any postsecondary education institution under the supervision of the State Board of Education, including any entity under the control of or established for the benefit of a state college.

(g) ~~(f)~~ "State university" means any state university under the supervision of the Board of Governors, including any entity under the control of or established for the benefit of a state university.

(2) A state agency, political subdivision, or public school~~, state college, or state university~~ authorized to expend state-appropriated funds or levy ad valorem taxes may not participate in any agreement with or accept any grant from a foreign country of concern, or any entity controlled by a foreign country of concern, which:

(a) Constrains the freedom of contract of such public

entity;

(b) Allows the curriculum or values of a program in the state to be directed or controlled by the foreign country of concern; or

(c) Promotes an agenda detrimental to the safety or security of the United States or its residents. Before ~~Prior to~~ the execution of any cultural exchange agreement with a foreign country of concern, the substance of the agreement must ~~shall~~ be shared with federal agencies concerned with protecting national security or enforcing trade sanctions, embargoes, or other restrictions under federal law. If such federal agency provides information suggesting that such agreement promotes an agenda detrimental to the safety or security of the United States or its residents, the public entity may not enter into the agreement.

(3)(a) For the purposes of this subsection only, the term "agreement" means a written statement of mutual interest in academic or research collaboration.

(b) Beginning July 1, 2023, a state university or state college authorized to expend state-appropriated funds may not accept any grant from or participate in any agreement or partnership with any college, university, or entity that is based in or controlled by a foreign country of concern, except as specified in paragraphs (c) and (d).

(c) A state university may, upon approval by the Board of

Governors, enter into an agreement with a foreign country of concern or an entity located in or controlled by a foreign country of concern if such agreement is deemed by the board to be valuable to students and the state university and is not detrimental to the safety or security of the United States or its residents. An agreement approved under this subsection must meet the other relevant requirements of s. 288.860.

1. Beginning July 1, 2023, the board shall exercise the authority provided pursuant to s. 1008.322 to sanction a state university pursuant to subparagraph 2. which enters into a partnership or agreement with a foreign country of concern or an entity that is located in or controlled by a foreign country of concern without approval from the board.

2. The board may withhold additional performance funding for a state university that enters into an agreement with a foreign country of concern or an entity that is located in or controlled by a foreign country of concern without approval from the board. The funds must be deposited into the General Revenue Fund. The board may administratively enforce this section.

(d) A state college may, upon approval by the State Board of Education, enter into an agreement with a foreign country of concern or an entity located in or controlled by a foreign country of concern if such agreement is deemed by the state board to be valuable to students and the state college and is not detrimental to the safety or security of the United States

or its residents. An agreement approved under this subsection must meet the requirements of s. 288.860.

1. Beginning July 1, 2023, the state board shall exercise the authority provided pursuant to s. 1008.32 to sanction a state college pursuant to subparagraph 2. which enters into a partnership or agreement with a foreign country of concern or an entity that is located in or controlled by a foreign country of concern without approval from the state board.

2. The state board may withhold additional performance funding for a state college that enters into an agreement with a foreign country of concern or an entity that is located in or controlled by a foreign country of concern without approval from the state board. The funds must be deposited into the General Revenue Fund. The state board may administratively enforce this section.

(e) Each state university and state college shall submit the information required in paragraph (f) to the Board of Governors and the Department of Education, respectively, by July 1 of each year.

(f) By August 1, 2024, and each August 1 thereafter, the Board of Governors and the Department of Education, respectively, shall submit a report to the Governor, the President of the Senate, and the Speaker of the House of Representatives relating to agreements of state universities and state colleges, respectively, with foreign entities. At a

minimum, the report must include the following information for the previous fiscal year:

1. Data reflecting any grant program, agreement, partnership, or contract between a state university or state college and any university, college, or entity that is based in or controlled by a foreign country.

2. Data reflecting any office, campus, or physical location used or maintained by a state university or state college in a foreign country.

3. The date on which any such grant program, agreement, partnership, or contract reported pursuant to subparagraph 1. is expected to terminate.

(g) The Board of Governors and the State Board of Education shall adopt regulations and rules, respectively, to administer this subsection.

(4) ~~(3)~~ A state agency, political subdivision, public school, state college, or state university may not accept anything of value conditioned upon participation in a program or other endeavor to promote the language or culture of a foreign country of concern.

(5) ~~(4)~~ For the 2022-2023 fiscal year, notwithstanding subsection (2), a state agency, political subdivision, public school, state college, or state university may not enter into any agreement with or accept any grant from the Russian Federation. This subsection expires July 1, 2023.

Section 2. Paragraph (h) of subsection (1) of section 286.101, Florida Statutes, is amended, paragraphs (i) and (j) are added to that subsection, and subsection (10) is added to that section, to read:

286.101 Foreign gifts and contracts.—

(1) As used in this section, the term:

(h) "State agency" means any agency or unit of state government created or established by law. For the purposes of this section only, the term does not include a state university or a state college.

(i) "State college" means any postsecondary education institution under the supervision of the State Board of Education, including any entity under the control of or established for the benefit of a state college.

(j) "State university" means any state university under the supervision of the Board of Governors, including any entity under the control of or established for the benefit of a state university.

(10)(a) A state university or state college, or any employee or representative of a state university or state college, may not solicit or accept any gift, including any physical object, loan, reward, promise of future employment, favor, or service, from:

1. A foreign country of concern or an entity that is located in or controlled by a foreign country of concern; or

2. A person associated with or employed by a foreign country of concern or an entity that is located in or controlled by a foreign country of concern.

(b) The Board of Governors and the State Board of Education shall adopt regulations and rules, respectively, to administer this subsection.

Section 3. This act shall take effect July 1, 2023.

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	___ (Y/N)
ADOPTED AS AMENDED	___ (Y/N)
ADOPTED W/O OBJECTION	___ (Y/N)
FAILED TO ADOPT	___ (Y/N)
WITHDRAWN	___ (Y/N)
OTHER	_____

Committee/Subcommittee hearing bill: Postsecondary Education & Workforce Subcommittee

Representative Canady offered the following:

Amendment (with title amendment)

Remove line 101 and insert:

Governors, enter into a partnership or agreement with a foreign country of

Remove line 103 and insert:

country of concern if such partnership or agreement is deemed by the board to

Remove line 106 and insert:

its residents. A partnership or agreement approved under this subsection must

Remove line 115 and insert:

PCS for HB 679 a1

for a state university that enters into a partnership or agreement with a

Remove line 121 and insert:

of Education, enter into a partnership or agreement with a foreign country of

Remove line 123 and insert:

country of concern if such partnership or agreement is deemed by the state

Remove line 126 and insert:

or its residents. A partnership or agreement approved under this subsection

Remove line 135 and insert:

funding for a state college that enters into a partnership or agreement with a

Remove line 149 and insert:

Representatives relating to partnerships and agreements of state universities and

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T I T L E A M E N D M E N T

Remove lines 6-20 and insert:

or participating in partnerships or agreements with a foreign country of concern unless specified conditions are met; authorizing state universities to enter into partnerships or agreements with a foreign country of

concern if such partnerships or agreements are approved by the Board of Governors and specified requirements are met; authorizing the board to sanction and to withhold performance funding from a state university for entering into an unauthorized partnership or agreement; authorizing state colleges to enter into partnerships or agreements with a foreign country of concern if such partnerships or agreements are authorized by the State Board of Education and specified requirements are met; authorizing the state board to sanction and to withhold performance funding from a state college for entering into an unauthorized partnership or agreement with a foreign

HB 931

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 931 Postsecondary Educational Institutions
SPONSOR(S): Roach
TIED BILLS: None. **IDEN./SIM. BILLS:** SB 958

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Postsecondary Education & Workforce Subcommittee		Wolff	Kiner
2) Higher Education Appropriations Subcommittee			
3) Education & Employment Committee			

SUMMARY ANALYSIS

Intellectual freedom and viewpoint diversity are essential to the education of Florida's college and university students. Research shows that without support for the principles of intellectual freedom and viewpoint diversity students at colleges and universities may self-censor or feel unable to express their opinions to faculty or their classmates. Continuing Florida's efforts to cultivate public postsecondary educational institution campuses with a wide range of perspectives on diverse issues critical to the public discourse, the bill directs the Board of Governors to create the Office of Public Policy Events (OPPE) within the State University System (SUS). The bill requires that the OPPE organize, publicize, and stage debates, group forums and lectures at each SUS institution that address a range of public policy issues.

The U.S. Supreme Court has consistently struck down mandatory political loyalty oaths, particularly in the education setting. To ensure that faculty, staff, and students at Florida's public postsecondary educational institutions are hired or admitted based on merit rather than ideological perspective, the bill prohibits the use of political loyalty tests in the institution's hiring, admissions, or promotion processes. Public postsecondary educational institutions are prohibited from requiring or soliciting a person to identify a commitment to or support a partisan, political, or ideological set of beliefs or other specified ideologies or movements.

The bill updates the reporting deadline for the required Intellectual Freedom and Viewpoint Diversity survey results from September 1 to December 31, annually, beginning December 31, 2024.

The bill has an indeterminant fiscal impact. *See* Fiscal Comments, *infra*.

The bill has an effective date of July 1, 2023.

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

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Intellectual Freedom and Viewpoint Diversity Assessments

Present Situation

Intellectual Freedom and Viewpoint Diversity in Higher Education

In January 2015, the Committee on Freedom of Expression at the University of Chicago produced a free speech policy statement (referred to as the "Chicago Statement") that affirmed the centrality of unfettered debate to the university's mission.[1] The statement provided in part:

[I]t is not the proper role of the University to attempt to shield individuals from ideas and opinions they find unwelcome, disagreeable, or even deeply offensive. Although the University greatly values civility, and although all members of the University community share in the responsibility for maintaining a climate of mutual respect, concerns about civility and mutual respect can never be used as a justification for closing off discussion of ideas, however offensive or disagreeable those ideas may be to some members of our community.

The Chicago Statement continues a tradition of institutions and organizations affirming the importance of the free expression and sharing of ideas on college and university campuses.[2]

The 2017 National Survey of Student Engagement revealed that most students surveyed (64 percent) felt that postsecondary coursework generally respected the expression of diverse ideas, and that the postsecondary institution generally demonstrated a commitment to diversity (71 percent).[3] This was reflected when specific forms of diversity were considered, such as gender, religious affiliation, or disability status. When political affiliation was considered, only half of students surveyed felt their postsecondary institution was generally supportive of different political ideas.[4]

The Campus Free Expression Act became Florida law in 2018. [5] Under the law, outdoor areas of campus are considered traditional public forums for individuals, organizations, and guest speakers. A public institution of higher education may create and enforce restrictions that are reasonable and content-neutral on time, place, and manner of expression and that are narrowly tailored to a significant institutional interest. Restrictions must be clear and published and must provide for ample alternative means of expression.[6] A public institution of higher education may not otherwise designate any area of campus as a free-speech zone or create policies restricting expressive activities to a particular outdoor area of campus.[7] A person whose expressive rights are violated may bring an action against a public institution of higher education in a court of competent jurisdiction to obtain declaratory and injunctive relief, reasonable court costs, and attorney fees.[8]

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[1] University of Chicago, *Report of the Committee on Free Expression* (2015), *available at* https://provost.uchicago.edu/sites/default/files/documents/reports/FOECommitteeReport.pdf.
[2] *See* American Council on Education, *Statement on Academic Rights and Responsibilities* (June 23, 2005), *available at* https://www.acenet.edu/Documents/Statement-on-Academic-Rights-and-Responsibilities-2005.pdf; American Association of University Professors, *1940 Statement of Principles on Academic Freedom and Tenure* (1940), *available at* https://www.aaup.org/file/1940%20Statement.pdf.
[3] National Survey of Student Engagement, *2017 Topical Module: Inclusiveness and Engagement with Cultural Diversity*, *available at* https://scholarworks.iu.edu/dspace/bitstream/handle/2022/23392/NSSE_2017_Annual_Results.pdf?sequence=1&isAllowed=y.
[4] *Id*.
[5] Section 6, ch. 2018-4, L.O.F.
[6] Section 1004.097(3)(c), F.S.
[7] Section 1004.097(3)(d), F.S.
[8] Section 1004.097(4), F.S.

In April of 2019, the chancellor of the State University System, all twelve state university presidents, and the chair of the Florida College System (FCS) Council of Presidents signed resolutions affirming their commitment to providing for free expression on campus.[9] FCS institutions and state universities further acknowledge their responsibility to foster and protect faculty rights to intellectual freedom in their collective bargaining agreements with faculty unions.[10]

In 2023, according to the Foundation for Individual Rights in Education (FIRE), only four out of the eleven state universities in Florida that FIRE evaluated had policies that did not inhibit free expression.[11] A national survey revealed, in part, that:

- 22 percent of students would have felt very uncomfortable publicly disagreeing with a professor about a controversial topic;
- 29 percent of students felt that the college administration did not make it clear that free speech was protected on campus;
- 60 percent of students had felt they could not express their opinion on a subject because of how students, a professor, or the administration would respond; and
- 60 percent of students could recall at least one time during their college experience when they did not share their perspective for fear of how others would respond. Students who identified as conservative were more likely to report a prior self-censorship incident (72 percent for conservative students, 55 percent for liberal students). [12]

In 2021, the Legislature passed legislation requiring an individual freedom and viewpoint diversity survey to be administered by all FCS and State University System (SUS) institutions. The State Board of Education (SBE) and the Board of Governors (BOG) were required to select or create an objective, nonpartisan, and statistically valid survey to assess intellectual freedom and viewpoint diversity at Florida's state universities and FCS institutions. The surveys were required to be designed to capture the extent to which competing ideas and perspectives are presented on campus as well as the extent to which those surveyed feel free to express their beliefs and viewpoints on campus and in the classroom. All FCS institutions and state universities must conduct the survey annually and the SBE and the BOG must compile and annually publish the survey results beginning September 1, 2022.[13] Both the SBE[14] and the BOG[15] timely published the first required reports in the fall of 2022.

Effect of Proposed Changes

The bill updates the annual reporting requirements for the SBE and the BOG so that the survey results must be reported by December 31 each year, beginning December 31, 2024.

To continue Florida's work in fostering a wide array of perspectives are presented at state universities, the bill requires the BOG create an Office of Public Policy Events (OPPE) with satellite offices at each

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[9] Foundation for Individual Rights in Education, *Spotlight of Speech Codes 2023*, https://www.thefire.org/research-learn/spotlight-speech-codes-2023 (last visited Mar. 2, 2023) [hereinafter *Spotlight on Speech*]; Executive Office of the Governor, *Governor Ron DeSantis Calls on State Colleges and Universities to Adopt Free Speech Resolution* (Apr. 15, 2019), https://www.flgov.com/2019/04/15/governor-ron-desantis-calls-on-state-colleges-and-universities-to-adopt-free-speech-resolution/.

[10] *See, e.g., Tallahassee Community College and United Faculty of Florida 2020-2021* (Oct. 15, 2020), *available at* https://blogs.tcc.fl.edu/labor-negotiations/wp-content/uploads/sites/13/2020/10/TCC-UFF_2020-21_FINAL.pdf; *Collective Bargaining Agreement: The Florida State University Board of Governors and the United Faculty of Florida General Faculty Bargaining Unit 2019-2022* (Oct. 30, 2020), *available at* https://hr.fsu.edu/sites/g/files/upcbnu2186/files/PDF/Publications/UFF_CBA_Updated_2021.pdf.

[11] *Spotlight on Speech*, *supra* note 9. The four Florida universities with policies that were not found to inhibit free speech include the University of Florida, Florida State University, the University of South Florida, and the University of North Florida. Florida has twelve public universities but FIRE has never rated Florida Polytechnic University.

[12] College Pulse, et al., *College Free Speech Rankings: What's the Climate for Free Speech on America's College Campuses?* (2020), at 2 and 53-59, https://reports.collegepulse.com/college-free-speech-rankings, (enter name and e-mail in designated fields to download report) (last visited Mar. 2, 2023).

[13] Section 1001.706(13), F.S.

[14] Florida Department of Education, Division of Florida Colleges, *Intellectual Freedom and Viewpoint Diversity 2022 Florida College System Institutions*, *available at* https://www.fldoe.org/core/fileparse.php/7724/urlt/FCS-IFVD.pdf.

[15] Florida Board of Governors, *Intellectual Freedom and Viewpoint Diversity 2022 Survey*, *available at* https://www.flbog.edu/wp-content/uploads/2022/08/SUS_IF-SURVEY_REPORT_DRAFT__2022-08-16.pdf.

state university. The purpose of the OPPE is to facilitate the advancement of knowledge through events featuring open discussion and debate of contested public policy issues from diverse perspectives.

The bill defines "debate" as an event at which two or more participants speak in favor of opposing approaches to the same public policy dispute, after which each participant is allotted time to address and rebut the position presented by the opposing speakers and "group forum" as an event at which two or more speakers address a public policy dispute from divergent or opposing perspectives, after which each participant is allotted time to address questions from the audience and to comment on the other speakers' positions.

The OPPE must organize, publicize, and stage a substantial number of debates, group forums, and individual lectures at each state university that address, from multiple, divergent, and opposing perspectives, an extensive range of public policy issues widely discussed and debated in society at large. Such events must represent a wide range of views on opposing sides of public policy issues from within and outside the campus community. As needed to ensure a broad set of perspectives on any given topic, the OPPE is authorized to provide per diem and travel expenses to speakers from outside the state university community.

Additionally, the OPPE must maintain a permanent, publicly accessible, searchable, and up-to-date calendar in print, on the office's website, and on each state university's website listing all of the events sponsored by the office and all other debates, group forums, and individual lectures open to the entire campus community at the state university that address public policy issues. Beginning September 1, 2024, and annually thereafter, the OPPE is responsible for providing a copy of the prior year's calendar to the Governor, the Legislature, and each SUS institution. The calendar must contain the following:

- the title of the event or lecture;
- the name and institutional affiliation of the speaker or speakers; and
- the office, institute, department, program, or organization that sponsored the event.

Finally, the OPPE must make publicly available, in an online format, a complete video record of every debate, group forum, and individual lecture organized by the office. Such recordings must be made available within 10 days after the event and remain accessible on the OPPE's website for five years. Additionally, the recording must be maintained within the library of the state university where the event was held.

The bill authorizes the responsibilities of OPPE satellite offices to be assigned to an existing administrative office within a state university but requires that the state university appoint a director of public policy events responsible for fulfilling the statutory duties of the OPPE. The OPPE satellite offices must report directly to the university's office that is responsible for compiling and reporting the Integrated Postsecondary Education Data System's graduation rate survey or Office of General Counsel.

Events hosted by the OPPE must be open to all members of the campus community and to the general public, unless restricting attendance to such event is necessary to achieve a compelling governmental interest.

Political Loyalty Tests in Hiring and Admissions

Present Situation

Background

Diversity, Equity, and Inclusion (DEI) initiatives are intended to provide equal access as well as a more welcoming and inclusive environment for underrepresented minorities within the institution.[16] The impetus behind DEI initiatives is the belief that having a more diverse representation coupled with

[16] *See* Florida International University, *Diversity Equity and Inclusion Institutional Goals*, https://dei.fiu.edu/our-foundations/institutional-goals/index.html (last visited Dec. 16, 2022).

creating space where everyone feels a sense of belonging and can bring their authentic selves to work, is better for the business.[17]

However, research indicates that DEI initiatives may have negative impacts that directly undermine the reported goals of the programs.[18] The presence of DEI initiatives can lead to lower evaluations and perceptions of members of the organization based on the implication that individuals are not present due to merit but simply to satisfy the DEI initiative's goals.[19] This impact is not only external, the individuals themselves can be led to underestimate their own competence and ability due to the presence of a DEI initiative.[20] The mere presence of a DEI initiative within an organization can undermine the very purpose the DEI initiative allegedly serves.

DEI in Florida Public Postsecondary Educational Institutions

In an effort to document operational costs of state institutions, the Governor's Office of Policy and Budget (OPB) requested, on December 28, 2022, that each state college and state university provide comprehensive data on all staff, programs, and campus activities related to DEI and Critical Race Theory.[21] As part of this request, each institution was required to detail the following administrative expenses associated with each program or activity:[22] brief description of the program or activity; positions, including full and partial full-time equivalent (FTE); total funding expended to support the initiative; and, of the total funding expended to support the initiative, the state-funded portion.

Data responsive to the OPB's request provided an accounting of expenditures utilized for DEI for 12 universities in Florida.[23] A summation of expenditures is below.[24]

University	Total DEI Funding	Total State Funding	Percentage of State Funding	Total FTE
University of Florida	$5,333,913	$3,381,330	63%	43.278
Florida State University	$2,454,591	$2,248,382	92%	74
Florida A&M University	$4,436,667	$4,163,497	94%	31.53
University of South Florida	$8,663,476	$2,539,260	29%	31.87
Florida Atlantic University[25]	$904,026	$642,776	71%	8.427
University of West Florida	$909,704.43	$806,397.63	89%	11.4054
University of Central Florida	$4,473,498	$2,294,311	51%	25.80
Florida International University	$3,126,827.34	$2,256,732.10	72%	21.1686
University of North Florida	$3,518,349	$1,788,856	51%	25

[17] *Id.*
[18] Fortune, Michelle Frank, *The problem with diversity and inclusion initiatives*, May 18, 2022, https://fortune.com/2022/05/18/problem-diversity-inclusion-initiatives-dei-women-careers-work-leadership-stereotypes-michele-frank/ (last visited Mar. 2, 2023).
[19] *Id.*
[20] *Id.*
[21] Executive Office of the Governor, Memorandum # 23-021, *Higher Education Program and Activity Survey*, December 28, 2022.
[22] *Id.*
[23] Florida Board of Governors, *Combined SUS DEI Response*, *available at* https://drive.google.com/file/d/1vQbcRDZmWzewqD_vuFx97zjTIscoG1O8/view.
[24] *Id.*
[25] FAU indicated on the data file that .5 FTE positions were eliminated in Fall 2022. The total DEI funded for this unit was $141,161.47, through state funding. As the data was included on the report, I also included this in the chart. See FAU tab in Excel file. *Id.* at 19.

Florida Golf Coast University	$382,021	$317,662	83%	4.617
Florida Polytechnic University	$8,363	$8,363	100%	.11
New College of Florida	$290,451	$288,337	99%	2.05
Total	$34,501,887	$20,735,904	60%	279.256

The data reported to the Legislature reflected expenditures on DEI positions, programs, and courses.[26] The University of Florida reported expending $1,085,485, including $784,531 of state funds, for 4 FTE positions: Chief Diversity Officer and Senior Advisor to the President; Assistant Director for Diversity Analytics; a project manager, and an executive assistant.[27] The University of South Florida houses a similar office, the Diversity and Inclusion Office, with an allocated 8 FTE and total funding of $1,156,158, of which, $1,134,466 is state-funded.[28]

Florida State University (FSU) embeds DEI and CRT within several courses. One course offered to satisfy the General Education requirement in Social Science is titled Social (In)Equalities: Social Construction of Difference and Inequalities. The course is described as "exploring the structures and institutions of social inequality along the intersectional axes of class, race, gender, and sexuality by focusing on how these categories are socially constructed, maintained, and experienced."[29] A course titled Philosophy of Race, Class, and Gender is described as "a study of selected contemporary philosophical, literary, and journalistic discussions of questions regarding race, class, and gender with a particular emphasis of these discussions in the United States."[30]

In another example, Florida Atlantic University (FAU) explores DEI and CRT within several offered courses. A course titled Racism and Anti-Racism is described as "exploring the concepts of race, racism, and anti-racism from a variety of disciplines and perspectives."[31] Another course, titled Gender and Climate Change, is described as "exploring how gender inequality across the globe is related to environmental damage and climate change and examines feminist, indigenous, and LGBTQ climate justice movements alongside the gendered implications of global policy and practices related to the environment." This course is offered as one of FAU's General Education courses.[32]

The Florida House of Representatives submitted a follow-up request on January 12, 2023, extending the scope of the OPB's inquiry to include questions about the use of political considerations in curriculum development, faculty hiring and promotion, and other inappropriate activities.

The presidents of the Florida College System (FCS) issued a statement on DEI and Critical Race Theory on January 18, 2023.[33] The statement affirmed that the FCS presidents, through the FCS Council of Presidents, will ensure that no initiatives, instruction, or activities promote any ideology that suppresses intellectual and academic freedom, freedom of expression, viewpoint diversity, or the

[26] Florida Board of Governors, *Combined SUS DEI Response*, *available at* https://drive.google.com/file/d/1vQbcRDZmWzewqD_vuFx97zjTIscoG1O8/view.
[27] *Id.* at 1. The positions are "to develop inclusive excellence strategy for the university and coordinates inclusive excellence initiatives across the colleges and business units." *Id.*
[28] *Id.* at 16.
[29] *Id.* at 9.
[30] *Id.* at 11.
[31] *Id.* at 18.
[32] *Id.*
[33] Florida Department of Education, *FLORIDA COLLEGE SYSTEM PRESIDENTS REJECT 'WOKE' DIVERSITY, EQUITY AND INCLUSION (DEI), CRITICAL RACE THEORY IDEOLOGIES AND EMBRACE ACADEMIC FREEDOM*, January 18, 2023, https://www.fldoe.org/newsroom/latest-news/florida-college-system-presidents-reject-woke-diversity-equity-and-inclusion-dei-critical-race-theory-ideologies-and-embrace-academic-freedom-.stml (last visited Mar. 1, 2023).

pursuit of truth in teaching and learning.[34] Specifically, by February 1, 2023, the presidents of FCS institutions agreed to evaluate and eliminate all anti-discrimination instruction, training, and policies.[35]

DEI in Medical School Admissions, Curriculum, and Hiring

Many of the nation's top medical schools have begun to include DEI questions in their secondary applications.[36] A secondary application provides the medical school applicant the opportunity, through essays or short narrative answers, to explain their interest in a program and how their life experiences align with the school's mission and values.[37] Based on a review of medical school application essays, 72 percent of the top 50 medical schools and 80 percent of the top 10 medical schools include at least one DEI question in their secondary applications.[38] The Florida Atlantic University E. Schmidt College of Medicine, for applicants in 2021-2022, posed the following prompt:[39]

> As a community FAU Schmidt COM has made a commitment to be anti-racist and address systemic racism in education and healthcare. Institutionalized racism can be defined as "macro level systems, social forces, institutions, ideologies, and processes that interact with one another to generate and reinforce inequities among racial and ethnic groups." As a future medical student at FAU, how can you play an active role in addressing and dismantling systemic racism?

According to a review of the University of Florida College of Medicine (UFCOM) policies and procedures as well as publications reflects a concerted effort to incorporate the principles of DEI into every aspect of the medical school process.[40] As recently as October 2022, the homepage for the UFCOM included statements about the "existence and persistence of systemic oppression and racism that endanger the lives of people of color" and links to "anti-racism" resources to permit potential UFCOM applicants to self-educate on these issues and become part of the solution.[41]

Additionally, UFCOM explicitly states its intention to enhance "recruitment and retention of underrepresented groups to its student body, residency training programs, faculty and staff positions."[42] UFCOM even has its accepted students weekend at the end of UFCOM's "diversity week."[43] UFCOM includes "anti-racist" principles into its student code of ethics, requiring all student to adopt these principles as a requirement of attending the institution.[44]

UFCOM incorporates its DEI strategies into the hiring and retention of faculty.[45] The UFCOM diversity statement provides that the college is "committed to diversity, inclusion and health equity through the efforts of actively finding, developing and including the best talent to support our vision of being 'a premier institution focused on promoting health and alleviating human suffering through exceptional education, discovery, innovation and patient-centered health care of the highest quality.''[46] The

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[34] *Id.*
[35] *Id.*
[36] Do No Harm, *Only DEI Advocates Need Apply: 72 Percent of Top-Ranked Medical Schools Inject Identity Politics in Key Admissions Process Step*, p. 4, *available at* https://donoharmmedicine.org/research/2022/only-dei-advocates-need-apply/ (last visited Mar. 2, 2023) [hereinafter *Only DEI Advocates Need Apply*].
[37] *Only DEI Advocates Need Apply* at 3.
[38] *Only DEI Advocates Need Apply* at 4.
[39] *Only DEI Advocates Need Apply* at 6.
[40] Do No Harm, *Dedicated to DEI: The University of Florida College of Medicine is infusing equity and "anti-racism" into its Doctor of Medicine program*, Nov. 2022, available at https://donoharmmedicine.org/research/2022/dedicated-to-dei-the-university-of-florida-college-of-medicine/ (last visited Mar. 2, 2023) [hereinafter *Dedicated to DEI*].
[41] *Dedicated to DEI* at 5.
[42] *Dedicated to DEI* at 7.
[43] University of Florida, College of Medicine, *UF College of Medicine Statement on Diversity*, *available at* https://osa.med.ufl.edu/files/2014/10/Statement-on-Diversity.pdf.
[44] *Dedicated to DEI* at 9; University of Florida, College of Medicine, Office of Student affairs, *Code of Ethics*, https://osa.med.ufl.edu/policies-procedures/code-of-ethics/ (last visited Mar. 2, 2023).
[45] *Dedicated to DEI* at 13.
[46] University of Florida College of Medicine, *Diversity Statement*, p. 3, *available at* https://med.ufl.edu/wordpress/files/2022/10/3-03-Diversity-Statement.pdf.

diversity statement also concludes that reducing marginalization must be a "key outcome" of faculty development.[47]

The University of Florida, as an institution, invested more than five million dollars in DEI and racial justice programs[48] and included "diversity and equity accomplishments" as elements in the annual evaluations of top administrators.[49]

Compelled Speech

The U.S. Supreme Court (Court) has repeatedly held that the right to free speech protected by the first amendment to the constitution protects an individual from being compelled to speak. "If there is any fixed star in our constitutional constellation, it is that no official, high or petty, can prescribe what shall be orthodox in politics, nationalism, religion, or other matters of opinion or force citizens to confess by word or act their faith therein."[50] Stated even more plainly, the Supreme Court has held that free speech principles prohibit the government from telling people what they must say.[51] Additionally, an individual is also protected from being compelled to host or accommodate the speech of another.[52]

The Court has consistently struck down mandatory political loyalty oaths, particularly in the education setting.[53] The Court established a four-part test for reviewing the constitutionality of such oaths, requiring that:

- The oath may not infringe on First or Fourteenth Amendment rights;
- Employment may not be conditioned on an oath that one has not engaged in, or will not engage in, protected speech activities;
- Employment may not be conditioned on an oath denying past or avoiding future associational activities protected by the Constitution; and
- The oath may not be so vague that a person of ordinary intelligence must guess at its meaning.[54]

Equity and Access in Florida's Universities

BOG Regulation 2.003 governs state university system institution policies and procedure regarding equity and access for both students and employees.[55] The regulation prohibits discrimination on the basis of race, color, national origin, sex, religion, age, disability, marital status, veteran status, or any basis protected by applicable law.[56] Covered individuals include prospective and enrolled students, prospective and current employees, and university program invitees.[57] However, this does not prohibit an institution from using legal methods to achieve a broadly diverse student body, faculty and staff.[58]

Each state university system institution must:

- make available classes, programs, facilities, employment, and services without regard to the protected status or category of an individual;

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[47] *Id.*
[48] *See* text accompanying note 24, *supra*.
[49] *Dedicated to DEI* at 15; University of Florida, Human Resources, *Florida Equity Report 2021-2022*, at 38, *available at* https://data-apps.ir.aa.ufl.edu/public/diversity/UF%20Equity%20Report%202022.pdf.
[50] *West Virginia State Board of Education v. Barnette*, 319 U.S. 624, 642 (1943).
[51] *Rumsfeld v. Forum for Academic and Institutional Rights*, 547 U.S. 47, 61 (2006).
[52] *See Hurley v. Irish–American Gay, Lesbian and Bisexual Group of Boston, Inc.*, 515 U.S. 557 (1995) (state law cannot require a parade to include a group whose message the parade's organizer does not wish to send) and *Miami Herald Publishing Co. v. Tornillo*, 418 U.S. 241 (1974) (right-of-reply statute violates editors' right to determine the content of their newspapers).
[53] *See, e.g.*, *Baggett v. Bullitt*, 377 U.S. 360 (1964); *Elfbrandt v. Russell*, 384 U.S. 11 (1966); and *Keyishian v. Board of Regents*, 385 U.S. 589 (1967).
[54] *Cole v. Richardson*, 405 U.S. 676 (1972).
[55] Florida Board of Governors, Regulation 2.003.
[56] Florida Board of Governors, Regulation 2.003(1).
[57] *Id.*
[58] Florida Board of Governors, Regulation 2.003(1)(b). State university system institutions are expressly prohibited from using admissions criteria that include preferences on the basis of race, color, national origin, disability, religion, or sex. Florida Board of Governors, Regulation 6.001(3).

- establish policies, procedures, and reporting mechanisms that prohibit and address unlawful discrimination; and
- establish a designated office or person responsible for the development and implementation of the equal employment opportunity program at each university.[59]

Relating to equal opportunity in employment, each state university system institution must:
- Offer equal opportunity and access in employment to all qualified individuals without regard to the protected status or category of the individual.
- Maintain an annual equity plan for remedying underutilization of women and minorities, as applicable, in senior-level administrative positions and by faculty rank and/or tenure status.[60]

In compliance with state, federal, and NCAA requirements regarding equal opportunity and access to students to participate in intercollegiate athletics, as well as in intramural, club, or recreational athletics, each state university system institution must develop an equity plan addressing sex equity in sports offerings and funding, including the proper level of support for women's athletic scholarships.[61]

Finally, the BOG requires an annual Florida Equity Report, subject to the following requirements:
- At a minimum, each university's equity report must include information on the institution's progress in implementing strategic initiatives and performance related to equity and access as they pertain to academic services, programs, and student enrollment; equity in athletics; and employment.
- Each university's equity report shall assess sex equity in athletics, as well as representation by race and sex in student enrollment, senior level administrative positions and by faculty rank and/or tenure status.[62]
- Each equity report shall include a web citation of the university's nondiscrimination policy adopted by its university board of trustees.
- Such reports are to be submitted to the BOG by September 30th of each year.
- Each university board of trustees or designee shall approve the annual Florida Equity Report for its institution prior to submission to the BOG.
- The BOG shall annually assess the progress of each university's plan and advise the Governor and the Legislature regarding compliance.[63]

Preferences in High Education Admissions

The BOG adopted regulation 6.001 prohibiting Florida's universities from using admissions criteria that include preferences on the basis of race, color, national origin, disability, religion, or sex.[64]

Effect of Proposed Changes

The bill prohibits any public institution of higher education from requiring or soliciting a person to complete a political loyalty test as a condition of employment by, admission into, or promotion within such institution. Additionally, public institutions of higher education are prohibited from giving preferential consideration to a person for an opinion or actions in support of a partisan, a political, or an ideological set of beliefs or another person or group of persons based on the person's or group's race or ethnicity or support of a specified ideology or movement.

The bill provides that a political loyalty test includes compelling, requiring, or soliciting a person to identify commitment to or to make a statement of personal belief in support of:

[59] Florida Board of Governors, Regulation 2.003(2).
[60] Florida Board of Governors, Regulation 2.003(3).
[61] Florida Board of Governors, Regulation 2.003(4).
[62] Annual goals shall be developed and included in the equity report to address each area of underutilization. For each year in which prior year goals were not achieved, each university shall provide a narrative explanation and a plan for achievement of equity. Florida Board of Governors, Regulation 2.003(5)(b)1.
[63] Florida Board of Governors, Regulation 2.003(5).
[64] Florida Board of Governors, Regulation 6.001(3).

- Any ideology or movement that promotes the differential treatment of a person or a group of persons based on race or ethnicity, including an initiative or a formulation of diversity, equity, and inclusion beyond upholding the equal protection of the laws guaranteed by the Fourteenth Amendment to the United States Constitution or a theory or practice that holds that systems or institutions upholding the equal protection of the laws guaranteed by the Fourteenth Amendment of the United States Constitution are racist, oppressive, or otherwise unjust; or
- A specific partisan, political, or ideological set of beliefs.

The bill explicitly states that a political loyalty test does not include fidelity to, or an oath or effort taken to uphold, the United States Constitution or the Florida Constitution.

The bill authorized the SBE and the BOG to adopt rules and regulations, respectively, to implement these provisions. Such rules and regulations may provide penalties for the willful violation of these prohibitions.

The bill provides a severability clause for these provisions.

Due Process for Students Participating in Student Government

Present Situation

Student Governments at State Universities

Current law creates a student government on the main campus of every state university.[65] A state university student government is required to be comprised of at least a student body president, a student legislature and a student judiciary.[66] Each student government is required to adopt internal procedures that provide for the operation and administration of the student government as well as the fulfillment of all statutory duties including, but not limited to, establishing procedures for the suspension, removal, and discipline of officers of the student government.[67] The statutory requirements for university student governments are mirrored in the BOG regulations.[68]

Student government organizations are creatures of state statute and a part of the university at which they are established.[69] Actions taken by student government entities are subject to the approval of the university.[70] When a student government acts, it acts under the color of state law and such actions are considered state action.[71]

In 2021, the Legislature established additional due process protections for students participating in student governments. Every university student government body must include a provision in its internal procedures permitting an officer that is disciplined, suspended, or removed from office to appeal directly to the vice president of student affairs or other designated senior university administrator. Neither the student government nor the university may impose any conditions precedent on such an appeal.[72]

Florida Student Association

The Florida Student Association (FSA) is a nonprofit entity established to advocate on behalf of Florida's State University System (SUS) students. The FSA consists of the 12 university student body

[65] Section 1004.26(1), F.S.
[66] Section 1004.26(2), F.S.
[67] Sections 1004.26(3) and (4)(a), F.S.
[68] Florida Board of Governors Regulation 6.014.
[69] Section 1004.26(1), F.S.
[70] *See, e.g.*, Florida Board of Governors Regulation 6.014(5); Florida State University Board of Trustees Regulation FSU-3.001(3).
[71] *See Ala. Student Party v. Student Gov't Ass'n of the Univ. of Ala.*, 867 F.2d 1344, 1345 (11th Cir. 1989).
[72] Section 1004.26(4)(d), F.S.

presidents.[73] The president of the FSA serves as the student member of the BOG.[74] Additionally, the FSA nominates a student to serve on financial aid appeals committees.[75]

Effect of Proposed Changes

The bill officially designates the FSA as the nonprofit advocacy group for SUS students and requires the FSA president's due process rights be protected to the extent other students participating in student government activities have their due process rights protected. The chancellor of the BOG is authorized to designate an alternate entity if the FSA fails to meet the standard established in law.

The bill requires that the board of directors of the FSA be comprised of the 12 SUS institution student body presidents. The chair of the board of directors must be annually selected by the members of the board and shall also serve as the president of the FSA.

The bill requires the FSA to adopt bylaws that provide for the following:

- A due process for the removal or impeachment of the president of the FSA. Such due process must provide that the president of the FSA may be removed by the majority vote of members of the board of directors. The grounds for removal of the president of the FSA are limited to malfeasance, misfeasance, neglect of duty, incompetence, permanent inability to perform official duties, or conviction of a felony.
- Procedures for the suspension and removal of the president of the FSA following the conviction of a felony.
- Procedures for a president of the FSA who has been disciplined, suspended, or removed from his or her position to directly appeal such decision to the vice chancellor for academic and student affairs for the BOG. The bylaws may not place any condition precedent on the exercise of such right granted by this paragraph and the FSA may not elect a new president until the exhaustion of the appeals process or any other due process rights afforded by law.

B. SECTION DIRECTORY:

Section 1: Amends ss. 1001.03 and 1001.706, F.S.; revising the date by which the State Board of Education and the Board of Governors must annually compile and publish specified assessments.

Section 2: Amends ss. 1001.03 and 1001.706, F.S.; revising the date by which the State Board of Education and the Board of Governors must annually compile and publish specified assessments.

Section 3: Creates s. 1001.93, F.S.; requiring the Board of Governors of the State University System to establish an Office of Public Policy Events with satellite offices at each state university; providing duties of the office, including duties relating to hosting specified events and recordings of such events, maintaining calendars, and reporting requirements; authorizing a state university to assume the responsibilities of the satellite office on its campus; requiring satellite offices to report to specified state university offices; providing requirements for events of the office.

Section 4: Amends s. 1004.097, F.S.; prohibiting public institutions of higher education from requiring the completion of a political loyalty test or for persons to meet certain qualifications, as defined in the bill; requiring the State Board of Education and the Board of Governors to adopt rules and regulations for specified purposes; providing severability.

Section 5: Amends s. 1004.26, F.S.; designating the Florida Student Association as the nonprofit advocacy organization for students of the State University System and providing for due

[73] Florida Student Association, *About Us*, https://www.linkedin.com/company/florida-student-association (last visited Mar. 2, 2023).
[74] Art. IX, s. 7(d), Fla. Const. and s. 1001.70(1), F.S.
[75] Section 1009.42(1), F.S.

process protections for its board members; authorizing the Chancellor of the Board of Governors, with approval from the Board of Governors, to designate another organization to serve such students if the Florida Student Association does not comply with due process requirements.

Section 6: Provides an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   None.

2. Expenditures:

   See Fiscal Comments, *infra*.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   None.

2. Expenditures:

   None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

There is an indeterminate fiscal impact on the BOG and SUS institutions related to the organization, planning, and staging of public policy events, including potential per diem and travel expenses for guest speakers.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

   None.

2. Other:

   None.

B. RULE-MAKING AUTHORITY:

The bill authorizes the SBE and the BOG to adopt rules and regulations, respectively, to implement requirements related to the prohibition on political loyalty tests.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

Not applicable.

A bill to be entitled

An act relating to postsecondary educational institutions; amending ss. 1001.03 and 1001.706, F.S.; revising the date by which the State Board of Education and the Board of Governors must annually compile and publish specified assessments; creating s. 1001.93, F.S.; providing legislative findings; providing definitions; requiring the Board of Governors of the State University System to establish an Office of Public Policy Events; requiring the office to establish satellite offices at each state university; providing duties of the office, including duties relating to hosting specified events and recordings of such events, maintaining calendars, and reporting requirements; authorizing a state university to assume the responsibilities of the satellite office on its campus; providing requirements for such state universities; requiring satellite offices to report to specified state university offices; providing requirements for events of the office; amending s. 1004.097, F.S.; prohibiting public institutions of higher education from requiring the completion of a political loyalty test or for persons to meet certain qualifications; providing requirements for such prohibited tests and qualifications; requiring the

State Board of Education and the Board of Governors to adopt rules and regulations for specified purposes; providing severability; amending s. 1004.26, F.S.; designating the Florida Student Association as the nonprofit advocacy organization for students of the State University System; authorizing the Chancellor of the Board of Governors, with approval from the Board of Governors, to designate another organization to serve such students under certain circumstances; providing membership for the board of directors of the association; providing requirements for such board of directors relating to the board's chair and the association's president; requiring the board of directors to adopt certain bylaws; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Paragraph (b) of subsection (19) of section 1001.03, Florida Statutes, is amended to read:

1001.03 Specific powers of State Board of Education.—

(19) INTELLECTUAL FREEDOM AND VIEWPOINT DIVERSITY ASSESSMENT.—

(b) The State Board of Education shall require each Florida College System institution to conduct an annual

assessment of the intellectual freedom and viewpoint diversity at that institution. The State Board of Education shall select or create an objective, nonpartisan, and statistically valid survey to be used by each institution which considers the extent to which competing ideas and perspectives are presented and members of the college community, including students, faculty, and staff, feel free to express their beliefs and viewpoints on campus and in the classroom. The State Board of Education shall annually compile and publish the assessments by December 31 ~~September 1~~ of each year, beginning on December 31, 2024 ~~September 1, 2022~~. The State Board of Education may adopt rules to implement this paragraph.

Section 2. Paragraph (b) of subsection (13) of section 1001.706, Florida Statutes, is amended to read:

1001.706 Powers and duties of the Board of Governors.—

(13) INTELLECTUAL FREEDOM AND VIEWPOINT DIVERSITY ASSESSMENT.—

(b) The Board of Governors shall require each state university to conduct an annual assessment of the intellectual freedom and viewpoint diversity at that institution. The Board of Governors shall select or create an objective, nonpartisan, and statistically valid survey to be used by each state university which considers the extent to which competing ideas and perspectives are presented and members of the university community, including students, faculty, and staff, feel free to

express their beliefs and viewpoints on campus and in the classroom. The Board of Governors shall annually compile and publish the assessments by December 31 ~~September 1~~ of each year, beginning on December 31, 2024 ~~September 1, 2022~~.

Section 3. Section 1001.93, Florida Statutes, is created to read:

1001.93 The Office of Public Policy Events within the State University System.—

(1) The Legislature finds that the advancement of knowledge is the fundamental purpose of the State University System and that such advancement is facilitated by the fearless sifting and winnowing of a wide diversity of views and that the open discussion and debate of contested public policy issues from diverse perspectives provides essential preparation for mature citizenship and an informed exercise of the right to vote.

(2) For purposes of this section, the term:

(a) "Debate" means an event at which two or more participants speak in favor of opposing approaches to the same public policy dispute, after which each participant is allotted time to address and rebut the position presented by the opposing speakers.

(b) "Group forum" means an event at which two or more speakers address a public policy dispute from divergent or opposing perspectives, after which each participant is allotted

time to address questions from the audience and to comment on the other speakers' positions.

(3) The Board of Governors of the State University System shall establish, fund, and staff an Office of Public Policy Events. The office must have a satellite office at each state university within the State University System. The office must, at a minimum:

(a)1. Organize, publicize, and stage a substantial number of debates, group forums, and individual lectures at each state university that address, from multiple, divergent, and opposing perspectives, an extensive range of public policy issues widely discussed and debated in society at large.

2. Such debates, group forums, and lectures must include speakers who represent widely held views on opposing sides of the most widely discussed public policy issues of the day and who hold a wide diversity of perspectives from within and outside of the state university community.

3. If the office is unable to readily find an advocate from within the state university community who is well-versed in a perspective, the office shall invite a speaker who is able to represent such perspective. The office shall, when necessary, provide such speakers who are not from within the state university community with per diem and a reimbursement for travel expenses.

(b)1. Maintain a permanent, publicly accessible,

searchable, and up-to-date calendar in print, on the office's website, and on each state university's website listing all of the events sponsored by the office and all other debates, group forums, and individual lectures open to the entire campus community at the state university that address public policy issues. The calendar must itemize the title of the event or lecture, the name and institutional affiliation of the speaker or speakers, and the office, institute, department, program, or organization that sponsored the event, excluding those events sponsored by off-campus groups in rented state university facilities.

2. Beginning September 1, 2024, and annually each September 1 thereafter, provide to the Governor, the Legislature, and to each state university a printed and an electronic copy of the previous academic year's calendar for each state university. Such calendars must be arranged chronologically. Such calendars must be kept in the library system of each state university.

(c) Make publicly available, in an online format, a complete video record of every debate, group forum, and individual lecture organized by the office. The video recording for an event organized by the office must be posted on the office's website within 10 business days after the event. Such video must remain publicly assessible on the office's website for at least 5 years after the date of the event. Such videos

must also be permanently preserved within, and made available to the public through, the library of the state university that hosted the event.

(4) At the discretion of the board of trustees of a state university and the Board of Governors, the Board of Governors may assign the duties of the office to an existing administrative office within the state university rather than establish a satellite office. The state university must appoint a Director of Public Policy Events. The Director of Public Policy Events and his or her staff are responsible for the duties and reporting responsibilities of the office.

(5) Each satellite office shall report directly to either the state university's office that is responsible for compiling and reporting the Integrated Postsecondary Education Data System's graduation rate survey or Office of General Counsel.

(6) Each debate, group forum, and individual lecture organized by the office must be open to all students, faculty, and staff of the state university and, unless restricting attendance to such event is necessary to achieve a compelling governmental interest, to the general public.

Section 4. Subsection (4) of section 1004.097, Florida Statutes, is renumbered as subsection (5), and a new subsection (4) is added to that section, to read:

1004.097 Free expression on campus.—

(4)(a) A public institution of higher education may not:

1. Require or solicit a person to complete a political loyalty test as a condition of employment or admission into, or promotion within, such institution.

2. Give preferential consideration to a person for employment by, admission into, or promotion within the institution for an opinion or actions in support of:

a. A partisan, a political, or an ideological set of beliefs; or

b. Another person or group of persons based on the person's or group's race or ethnicity or support of an ideology or movement identified under sub-subparagraph (b)1.a.

(b)1. A political loyalty test includes compelling, requiring, or soliciting a person to identify commitment to or to make a statement of personal belief in support of:

a. Any ideology or movement that promotes the differential treatment of a person or a group of persons based on race or ethnicity, including an initiative or a formulation of diversity, equity, and inclusion beyond upholding the equal protection of the laws guaranteed by the Fourteenth Amendment to the United States Constitution or a theory or practice that holds that systems or institutions upholding the equal protection of the laws guaranteed by the Fourteenth Amendment of the United States Constitution are racist, oppressive, or otherwise unjust; or

b. A specific partisan, political, or ideological set of

beliefs.

2. A political loyalty test does not include fidelity to, or an oath or effort taken to uphold, the United States Constitution or the State Constitution.

(c) The State Board of Education and the Board of Governors may adopt rules and regulations, respectively, to implement this subsection and establish penalties for a willful violation of this section.

(d) If any provision of this subsection or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this subsection or chapter which can be given effect without the invalid provision or application, and to this end the provisions of this subsection are severable.

Section 5. Subsection (5) of section 1004.26, Florida Statutes, is renumbered as subsection (6), and a new subsection (5) is added to that section, to read:

1004.26 University student governments; the Florida Student Association.—

(5)(a) The Florida Student Association is designated as the nonprofit advocacy organization serving the needs of the students of the State University System. If the Florida Student Association fails to meet the requirements of this section, the Chancellor of the Board of Governors shall designate an equivalent nonprofit advocacy organization to serve the needs of

the students of the State University System with the approval of the Board of Governors.

(b) The Florida Student Association shall be governed by a board of directors. The membership of the board of directors shall be comprised of the 12 student body presidents of the state universities. The board of directors shall annually elect a chair from among the board's members. The chair shall also serve as president of the association.

(c) The Florida Student Association shall adopt bylaws to establish:

1. A due process for the removal or impeachment of the president of the association. Such due process must provide that the president of the association may be removed by the majority vote of members of the board of directors. The grounds for removal of the president of the association are limited to malfeasance, misfeasance, neglect of duty, incompetence, permanent inability to perform official duties, or conviction of a felony.

2. Procedures for the suspension and removal of the president of the association following the conviction of a felony.

3. Procedures for a president of the association who has been disciplined, suspended, or removed from his or her position to directly appeal such decision to the Vice Chancellor for Academic and Student Affairs for the Board of Governors. The

bylaws may not place any condition precedent on the exercise of such right granted by this paragraph and the association may not elect a new president until the exhaustion of the appeals process or any other due process rights afforded by this section.

Section 6. This act shall take effect July 1, 2023.