

BUDGET BUDGET BUDGET - IT'S ALL ABOUT THE MONEY NOW

[SB 1696](#) by Sen. Lynn - Senate Budget Conforming bill

The Senate budget conforming bill, which synthesizes all appropriations to fit the availability of revenues, was the issue late last week. In the conforming bill, there are some good things as well as a few items which are problematic for the Florida College System.



As reported last week, the Senate budget is much more favorable for the community colleges. It utilizes both federal stimulus funds as well as funds available from the Seminole Gaming Compact, one of the few sources of new revenue on the table. At the Council of Presidents meeting on April 2, 2009, FACC Executive Director/CEO Michael Brawer asked the presidents for their support for FACC to join the coalition of organizations to support use of the Seminole Gaming Compact funds. Almost \$27M of gaming funds have been included in the Senate's budget for the Florida College System. Without the funds, the system budget would be in dire straights. Wayne Bertsch, representing the Seminole Tribe, attended the meeting and assured the colleges that 95% of all the gaming funds would be available to the education system. Community colleges can expect to see about \$11M annually in recurring funds from the compact. Moreover, communities surrounding the seven locations where gaming will be permitted, will benefit from as many as 45,000 new related jobs over the next 15 years. The Florida School Boards Association and the Florida Association of District School Superintendents have already backed the pact. The COP unanimously voted its support for FACC to join the coalition.

Problems still be worked out with the bill include a requirement that would transfer to the Board of Governors the oversight for colleges with 25 or more baccalaureate degree programs. This language portends to divide the Florida College System and create a chilling effect on new baccalaureate program development. Another section of the bill calls for the suspension of the development of new baccalaureate degree programs. This suspension would run indefinitely until the Legislature determines that there is new funding available for new programs. Another problematic area includes the proposed capping of senior-level salaries paid from state funds. The bill is scheduled to be heard again on April 7 in the Policy and Steering Committee on Ways and Means.

The House is not expected to release its conforming bill until sometime this week.

TECHNICAL COLLEGE?

[HB 0993](#) by Rep. Ray and [SB 2428](#) by Sen. Wise. Charter Technical Career Center Pilot Project

As previously reported, this bill would establish a Charter Technical Career Center Associate in Applied Science Degree Pilot Project. Although, no major committee action has occurred on this bill in two weeks, FACC continues to watch it closely.



Additional concerns, beyond those initially stated regarding SACS accreditation, have been added to the laundry list of problems identified in this proposed bill. As summarized by Lake Sumter CC President Mojock in a letter to the House of Representatives, the premise stated in the bill is to provide access to areas of the state "underserved by public associate degree granting institutions". If such concerns are the case, it would seem logical to communicate them to the state institution in the region. Regrettably, no such communication has ever occurred from the tech center side, that we are aware of. The bill is poor public policy and does not serve the interests of the taxpayers of Florida. Most critical is the lack of process followed before determining this was the best solution to make associate degree programs more accessible. Typically, the steps outlined below guide the process to establish new degree programs

- Determination of Need - The first step in the process of allowing institutions the authority to offer new degrees should be the determination of need. There is no evidence of a process followed locally to document workforce demand for the degree. Such evidence would include a clear gap in labor market as determined by the local workforce board, and the demand for enrollment. Analysis of the bill does not indicate any such need.



- Consideration of Alternative Proposals - The second step in the process, as followed by the community colleges piloting bachelor's degrees, requires notification of current public and private higher education institutions in order to allow them the opportunity to develop an alternative proposal. It only makes sense to fully leverage existing resources, especially in these times of tight budgets. This step is not followed in the bill.
- State Board of Education Review - The third step in the process is review of all proposals by the State Board of Education which renders a decision. This ensures an objective analysis of both the need and the best provider to meet the need. This step is not followed in the bill.
- Accreditation – A major step is the acquisition of Southern Association of Colleges and Schools (SACS) accreditation at the same level as other providers of the degree. There are no public institutions in the state of Florida offering degrees that do not possess SACS accreditation. Lack of regional accreditation impacts transferability of credits to other public and private higher education institutions. This issue has been addressed in the current versions of the bill moving forward.
- Ability to Deliver Complete Program – Tech centers do not have authority to offer the General Education courses required as part of a degree nor may it offer college preparatory classes for those not passing the College Placement Test. The bill does not allow a tech center to offer general education for at least three years. Students would still have to attend a community college or some other college to take these 15 credit hours.

FERPA

[SB 2426](#) (C1) and [SB 2374](#) by Sen. Detert

This bill is our “FERPA” bill designed to bring state student records laws in alignment with federal laws. The federal *Family Educational Rights & Privacy Act* of 1974, 20 U.S.C. § 1232g, popularly known as “FERPA” or the “Buckley Amendment,” and its extensive implementing regulations, found at 34 C.F.R. Part 99, apply to all public and private institutions of higher education that receive funds made available under programs administered by the Department of Education, including federal grant monies, Pell grants, and guaranteed student loan programs. In very general terms, FERPA gives college students and the parents or legal guardians of primary and secondary students the rights to control the disclosure of their (or child's) “education records” to others; inspect and review their own (or child's) “education records;” and seek amendment of their (or child's) “education records.” The bill we are supporting does the following:

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- ▶ Conforms Florida law to federal law, provides rulemaking authority to State Board of Education for K-12 system (rulemaking authority for colleges and universities already exists).
- ▶ Restates the longstanding public records exemption for education records for all public education sectors, now using established FERPA definition of “records that are directly related to a student and that are maintained by an educational institution,” with FERPA exceptions.
- ▶ Provides for disclosure of education records as permitted by FERPA.
- ▶ Provides for public records exemption for applicant records for public postsecondary institutions. Applicant records of students who do not enroll are not education records under FERPA, but may contain many of the same records (academic transcripts, disciplinary reports, disability, etc.) maintained for enrolled students, which are confidential and exempt.

Due to years of inattention, Florida's state analogy to FERPA, codified in Florida Statutes as s. 1002.22 and applicable to Florida's public educational institutions, is now cumbersome and obsolete as compared with the more detailed and responsive federal law. Dozens of discrepancies between s. 1002.22 and FERPA now exist, without the support of any coherent state policy. These inexcusable inconsistencies and omissions force our public educational institutions regularly to risk running afoul of both state and federal laws in their good faith attempts to implement these laws, creating an unacceptably high risk of liability to public educational institutions and unjustified confusion for parents and students statewide.

Federal law provides for the withholding of federal funds for institutions that have a policy or practice of violating FERPA. Florida law provides for a private right to sue and attorney fees for the successful litigant in the case of a violation of s. 1002.22. Inaction by the legislature increases the risk of Florida's loss of millions of federal education dollars and

substantial litigation expenses due to an unsound and deficient Florida law.

Distance Learning

[HB 7121](#) Education Policy Council and Rep. Culp

This bill is on the House Calendar and the Senate companion, [SB 844](#), will be heard on April 6th, 2009 in Higher Education. The remaining committee reference in the Senate is Higher Education Appropriations. The bill defines distance learning, for the purposes of placing a course into the online catalog and charging a fee as “at least 80% of the direct instruction of the course is delivered utilizing some form of technology when the student and instructor are separated by time, space or both.” The bill establishes the Florida Distance Learning Consortium in statute with assigned duties to include: management of the online catalog and the digital repository (Orange Grove); coordination of statewide pricing and contracts which would allow institutions to purchase software and related services if they choose to participate; development of a plan for a streamlined, automated, online registration process for undergraduate students; and the development of a plan for promoting and increasing the use of open access textbooks to reduce costs for students. It also clarifies information about the placement of the catalog link in the web site of institutions.



Rep Faye Culp R-Tampa

Bright Futures

[CS/CS/HB 719](#) by State Universities & Private Colleges Appropriations Committee and State Universities & Private Colleges Policy Committee and Rep. Stargel.

The FACC lobbying team has been following this bill for several weeks. Certain provisions in this Bill would have required the college or university to refund tuition for courses dropped by a Bright Futures recipient after the drop-add period. The institution would have been responsible for collecting the money from the student. Testimony by OPPAGA at a recent State Universities and Private College Appropriations Committee meeting indicated that Colleges and Universities would be in a better position to collect the amounts to be refunded to the State due to classes dropped by Bright Futures students. Actually, college collection efforts are limited to the placement of financial aid holds by the respective institution(s) and traditional collections efforts such as using a collection agency and/or filing a law suit. The State of Florida has far greater collection capabilities. The State already has existing collection practices for defaulted student loans that include financial aid holds statewide and wage garnishment of state employees. This provision has been dropped based on substitute language provided by the FACC team. The new language would put the refund burden on the student, and would suspend their ability to register at any state institution before the payback is made to the state. According to the Senate analysis, this could be as much as \$6 million in 2009-10.

RESIDENCY

[HB 7107](#) Proposed Committee Bill

This bill makes several amendments to existing law to limit the ability of students to reclassify as an in-state resident. The changes in the bill will make the process more complicated for those legitimate taxpayers who should obtain resident status, and encourages students to delay their education in order to qualify. We believe that delaying education is counter-productive to the Legislative goal of increasing the number of degree holders, and that delaying education will actually reduce revenue, as students who would pay in-state tuition (100%) for a full year, will wait to enroll at a point when the State pays a significant portion. The bill as introduced has been referred to Full Appropriations Council on Education and Economic Development.

Identical language is contained in [SB 1696](#), which will be heard by the Senate Committee on Ways and Means on Tuesday, April 7, 2009.



FLORIDA COLLEGE SYSTEM BILL STILL ALIVE

[SB 2682](#) by Sen. Pruitt, and [HB 7083](#) Proposed Committee substitute by State and Community Colleges and Workforce Policy Committee

As reported previously, the “Florida College System bill” significantly changes the Florida Community College System as we know it. The bill is designed to enhance the community college system statewide and provide for more programmatic offerings and increased student access. Last week, the Senate temporarily postponed action on the bill as FACC submitted amendments regarding its concern. Among the main concerns addressed in the proposed Senate committee substitute were the baccalaureate program approval process, where only the initial request goes to the State Board of Education, and subsequent requests are handled by the district Board of Trustees for the institution with the Division of Community College review. The bill is being heard again on April 6 by the Senate Higher Education committee.

SANTA FE COLLEGE TRANSPORTATION FEE

[SB 0622](#) by Sen. Oelrich and [HB 0739](#) by Rep. Chestnut

This bill, as previously reported, will allow SFC to charge a transportation fee for bus service to campus. The bill continues to move favorably.

RETIREMENT AND DROP

[SB 1182](#) by Sen. Fasano

As reported, this bill is among a few we have reported on that would dramatically change the Florida Retirement System. Among them is the elimination of the double-dipper provision in DROP. Below is a summary of the impact of the bill should it pass. This information has been extracted directly from the Senate staff analysis.

Section 1. Amends s. 121.091(9)(b), F.S., to provide the following:

- Any person who is retired under the FRS may be reemployed by an FRS employer but may not receive salary and retirement benefits.
- The person may not be reenrolled in the FRS.
- The employer is not subject to retirement contributions on behalf of the person.
- Provisions relating to reemployment with the 12-month period after retirement are repealed. Persons participating in the Deferred Option Retirement Program are not affected.
- Retirement benefits received while reemployed must be repaid to the FRS Trust Fund and the salary from any employments suspended.
- Suspended salary must be applied toward repayment of the unlawfully received retirement benefits.
- For exempt entities eligible to reemploy certain persons who are eligible to receive retirement pay and salary, some employment is limited to a part-time basis and no retirement contributions are required to be paid by the employer on behalf of the employee.
- Employees who exceed the part-time employment cap are not eligible to receive retirement benefits and any benefits paid to such persons must be repaid. Wages are suspended until the repayment is completed, and any suspended wages must be applied toward repayment.
- Effective July 1, 2009, contributions for elected officers with renewed membership shall be made as provided in s. 121.122, F.S.
- Eliminates requirements that after July 1, 1991, contributions for retirees with renewed membership shall be made as provided in s. 121.122, F.S.
- Repeals provisions providing for retirees holding an elective public office or an appointment to an elected public office that is eligible for classification in the Elected Officers' Class or the Regular Class to be enrolled in the system.⁶
- Repeals provisions allowing a person in an elective office covered by the FRS who is employed in a non-elective position within the FRS to retire from the non-elective position and receive retirement benefits as well as compensation.
- The limitations apply to reemployment in any capacity by any employer,⁷ irrespective of the category of funds from which the person is compensated.

Section 2. Amends s. 121.122, F.S., to limit membership in the renewed membership class to retirees employed in a regularly established position with a covered employer and enrolled as compulsory members of the Regular Class before July 1, 2009. On or after July 1, 2009, a retiree of a state-administered retirement system may not be enrolled in the FRS.

Section 3. Provides that the act takes effect July 1, 2009.

