

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Appropriations

BILL: CS/SB 7026

INTRODUCER: Appropriations Committee; and Appropriations Committee on Education

SUBJECT: Higher Education Finances

DATE: March 30, 2023

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
	<u>Gray</u>	<u>Elwell</u>		AED Submitted as Comm. Bill/Fav
1.	<u>Gray</u>	<u>Sadberry</u>	<u>AP</u>	Fav/CS

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 7026 provides flexibility for state universities and colleges relating to the use of funds in the following areas:

- Removing restrictions on certain uses of carry forward fund balances, including caps on maintenance and remodeling projects and the requirement that funds only be used for nonrecurring operating expenditures;
- Removing the requirement that universities comply with certain procurement processes and authorizes the Board of Governor's to establish procedures for universities to follow;
- Revises the limitation on the annual compensation of state university employees; and
- Authorizes state universities to waive out-of-state fees for student athletes receiving an athletic scholarship.

This bill has no state fiscal impact. See Fiscal, section V.

This bill takes effect July 1, 2023.

II. Present Situation:

Procurement Regulations for Universities

The Board of Governors (BOG) must develop guidelines for university boards of trustees relating to the acquisition of real and personal property, the sale and disposal of the approval and

execution of contracts for the purchase, sale, lease, license, or acquisition of commodities, goods, equipment, contractual services, leases of real and personal property, and construction.

Each board of trustees is required to comply with s. 287.055, F.S., related to the procurement of professional services.¹ Professional services includes “services within the scope of the practice of architecture, professional engineering, landscape architecture, or registered surveying and mapping, as defined by the laws of the state, or those performed by any architect, professional engineer, landscape architect, or registered surveyor and mapper in connection with his or her professional employment or practice.”² Procurement of professional services requires a prequalification process based on qualifications, which is then followed by negotiations to establish a fair, competitive, and reasonable price for the desired services.³

Postsecondary Tuition and Fees

Under Florida law, “tuition” is defined as the basic fee charged to a student for instruction provided by a public postsecondary educational institution in the state.⁴ All students enrolled in college credit programs at state universities are required to pay fees, except students that are exempt or those whose fees are waived. In addition, the BOG may set tuition for graduate and professional programs and out-of-state fees for all programs. Except as otherwise provided in law, the sum of tuition and out-of-state fees assessed to nonresident students must be sufficient to offset the full instructional cost of serving such students. The BOG is authorized to make adjustments to out-of-state fees or tuition for graduate programs and professional programs as long the adjustments do not exceed 15 percent in any year.

The resident undergraduate tuition rate for the State University System (SUS) is currently set in statute at \$105.07 per credit hour.⁵ Out-of-state fees for universities vary by institution, ranging from \$521.02 (at the University of South Florida) to \$897.06 (at the University of Florida) per credit hour for the 2022-23 academic year.⁶

Waivers from specified fees are authorized for certain students who meet identified criteria. Some waivers are mandatory, while others are permissive for institutions. For example, each university board of trustees is authorized to waive tuition and out-of-state fees for purposes that support or enhance the mission of the university.⁷

End-of-Year Carry Forward Balances

Currently, each university is required to maintain a minimum carry forward balance of at least 7 percent of its state operating budget. If a university retains a state operating fund carry forward

¹ Section 1001.706, F.S.

² Section 287.055(2)(a), F.S.

³ Section 287.055, F.S.

⁴ Section 1009.01(1), F.S.

⁵ Section 1009.24, F.S.

⁶ State University System of Florida, Tuition and Required Fees, 2022-22 available at https://www.flbog.edu/wp-content/uploads/2023/01/2022-2023-SUS-Tuition-and-Fees-Report_updated-with-footnote.pdf (last visited Mar. 18, 2023)

⁷ Section 1009.26(9), F.S.

balance in excess of 7 percent, it must submit a spending plan for the excess carry forward balance to the BOG. The authorized expenditures in the spending plan include:

- Completion of renovation, repair or maintenance projects, up to \$5 million per project and replacement of a minor facility that does not exceed 10,000 gross square feet in size up to \$2 million.
- Completion of a remodeling or infrastructure project, including a project for a developmental research school, up to \$10 million per project, if such project is survey recommended pursuant to s. 1011.31, F.S.
- Operating expenditures that support the university mission and that are nonrecurring.
- Any purpose specified by the board or in the General Appropriations Act.⁸

Additionally, there are limitations on the use of funds for comprehensive educational plant needs.⁹ University boards of trustees are authorized to utilize funds appropriated for the replacement of minor facilities provided the cost does not exceed \$1 million in cost or 10,000 gross square feet in size. If the work associated with repair or renovation is greater than or equal to the cost of replacement, the work associated with the minor facility is considered a replacement and beyond the scope of maintenance.¹⁰

Currently, each Florida College System (FCS) institution with a final FTE of less than 15,000 for the prior year must maintain a minimum carry forward balance of at least 5 percent of its state operating budget. If a FCS institution carries a balance forward in excess of 5 percent, it must submit a spending plan to its board of trustees. Each FCS institution with a final FTE of 15,000 or greater must maintain a carry forward balance of at least 7 percent of its state operating budget. If a FCS institution with a final FTE of 15,000 or greater carries a balance forward in excess of the 7 percent, it must submit a carry forward spending plan with estimated expenditures. The authorized expenditures in the spending plan may include:

- Completion of a renovation, repair, or maintenance project up to \$5 million per project;
- Completion of a remodeling or infrastructure project, up to 10 million per project;
- Operating expenditures that support the FCS institution's mission that are nonrecurring; or
- Any purpose approved by the state board or specified in the General Appropriations Act.¹¹

The price of construction materials and services increased by 12.6 percent in 2022 as compared to 2021.¹² The significant increases in construction costs, in conjunction with the statutory limitations on the amount of funds that may be used for maintenance, remodeling, or infrastructure projects, has created challenges for both SUS and FCS institutions.

⁸ Section 1011.45, F.S.

⁹ Section 1013.01, F.S., defines the term "educational plant" to mean the "educational facilities, site, and site improvements necessary to accommodate students, faculty, administrators, staff, and the activities of the educational program of each plant."

¹⁰ Section 1013.64, F.S.

¹¹ Section 1013.841, F.S.

¹² Florida Construction News, *Construction material costs post double-digit increases in 2022*, available at <https://www.floridaconstructionnews.com/construction-material-costs-post-double-digit-increases-in-2022-FloridaConstructionNews>. (last visited March 15, 2023)

Limitations on Compensation for University Employees

Currently, a state university employee may not receive more than \$200,000 from state appropriated funds in salary, bonuses, or cash-equivalent compensation, excluding health and retirement benefits, from a university for work performed.¹³ The term “appropriated state funds” means funds appropriated from the General Revenue Fund or funds appropriated from state trust funds.¹⁴

III. Effect of Proposed Changes:

The bill provides flexibility for universities and colleges relating to the use of their funds.

Section 1 amends s. 1001.706, F.S., to require the Board of Governors (BOG) to develop regulations for university boards of trustees relating to the procedures for contracting for construction of new facilities, or for additions, remodeling, renovation, maintenance, or repairs to existing facilities. Such regulations must be developed no later than October 1, 2023.

The bill also removes the requirement that universities must comply with s. 287.055, F.S., relating to the procurement of professional services; unless the contracts were executed, extended, or amended on or before September 30, 2023.

Section 2 amends s. 1009.26, F.S., to authorize a state university to waive the out-of-state fee for a student who is an intercollegiate athlete receiving an athletic scholarship.

Sections 3 and 4 amend ss. 1011.45 and 1013.841, F.S., respectively, to provide more flexibility to universities and colleges regarding the use of carry forward fund balances by:

- Removing the restriction from using the funds on only nonrecurring expenditures;
- Removing the caps on using the funds for renovation, repairs, or maintenance or remodeling or infrastructure projects; and
- Authorizing the use of the funds to be used for projects regardless of whether a specific appropriation has been previously provided.

Section 5 amends s. 1012.976, F.S., to define the term public funds and to increase the limitation on compensation from \$200,000 to \$250,000 a state university employee may receive annually from public funds.

Section 6 amends s. 1013.45, F.S., to provide that the requirements for educational facilities contracting and construction techniques only apply to district school boards and the boards of trustees of college system institutions and not the board of trustees of state universities. The bill in section 1 requires the BOG to develop procedures that will apply to state universities.

Section 7 amends s. 1013.64, F.S., to remove the restriction that minor facilities for which funds from the Public Education Capital Outlay and Debt Service Trust Fund may be used to replace

¹³ Section 1012.976, F.S.

¹⁴ *Id.*

are not limited to just projects that do not exceed \$1 million in cost or 10,000 gross square feet in size.

The bill takes effect July 1, 2023.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

This bill does not have an impact on state revenues or expenditures. The bill provides state universities and colleges with spending flexibility.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 1001.706, 1009.26, 1011.45, 1012.976, 1013.45, 1013.64, and 1013.841.

IX. Additional Information:**A. Committee Substitute – Statement of Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Appropriations on March 28, 2023:

The committee substitute:

- Amends the date by which the Board of Governors must develop regulations for the university board of trustees to use for contracted services.
- Specifies contracts executed, extended or amended before September 30, 2023 must comply with the current law relating to the procurement of professional services.
- Requires universities to comply with Revenue bonds and debt specified in s. 1010.62, F.S.
- Defines the term “public funds” to provide clarification that the cap on university employee compensation includes funding from tuition and fees in addition to appropriated state funds.

B. Amendments:

None.