

Florida Department of Education

Bill Number: Senate Bill 1270

Bill Title: Education

Bill Sponsor: Senator Oelrich

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Executive Summary:

Effective January 7, 2003, the State Constitution was amended to create a 17-member Board of Governors to oversee the State University System. Under the prior constitutional structure the State Board of Education oversaw all aspects of the K-20 educational system, including universities.

Since then several laws have been enacted to codify the new structure in statute. However, this current bill is a comprehensive rewrite of the entire School Code to address the changes necessitated by the new structure. These changes include:

- Creating the statutory structure of the Board and Governors and its staff and outlining its powers and duties.

- Amending the powers and duties of the State Board of Education and Commissioner in light of the duties now authorized by the Board of Governors. In many instances, outlined below, the State Board of Education must now work in conjunction or in collaboration with the Board of Governors when establishing policy and rules, carrying out accountability measures, planning and budgeting and carrying out other oversight functions.

- Removing oversight and responsibility for some programs from the State Board of Education to the Board of Governors.

- Requiring the Boards to execute an articulation agreement addressing many areas of college credit, admission and course requirement.

- Updating or revising obsolete terminology and statutory references.

Below is a section by section summary of the bill. The State Board of Education is referred to as the SBE, the Board of Governors as BOG, the university boards of trustees as UBOTs and the state university system as SUS.

Revisions to Organizational Structure and Governance

Sections 1, 3. Amends ss. 20.055(1)(a) and 20.155, to include the BOG as a state agency required to have an Office of an Inspector General.

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Section 2. Abolishes the Division of Colleges and Universities, clarifies that the organization of the DOE's divisions shall be to provide services to students in education under the SBE's jurisdiction and requires the DOE to provide support services to the BOG. Those services should include at a minimum accounting, printing, technology, personnel, accountability and administrative support for trust funds under the BOG's jurisdiction.

Section 3. Creates s. 20.155, F.S., pursuant to s. 7, Art. IX, of the state constitution, which establishes the BOG and its general powers and duties.

Section 64. Amends s. 1001.01 with respect to education governance transfer. When the Board of Regents was abolished all of its powers, duties, functions, records, property, unspent appropriations, allocation, funds, administrative authority, rules, pending issues and contracts were transferred to the SBE. Section 64 now transfers those from the SBE to the BOG, with an effective date of January 7, 2003.

Section 65. Deletes SBE's authority under s. 1000.03 to appoint ad hoc committees to assist on issues in the K-20 system. Further removes SBE's and Commissioner's authority, ability to enforce compliance and operation of support functions for K-20 system. Establishes BOG oversight and enforcement over state university laws and rules.

Section 66. Amends provisions of 1004.05 dealing with discrimination and equity to provide separate authority for SBE and BOG to oversee compliance and opportunity to promulgate rules for their respective areas of governance.

Section 66. Amends s. 1001.02, to qualify the scope of policy, objectives and plans to exclude the State University System; requires SBE to adopt college-level skills in conjunction with the BOG; amends budget process to require SBE to submit BOG budget request without change; limits SBE's examination of growth issues to community colleges and not universities; requires SBE to develop 5-year postsecondary enrollment plan in conjunction with the BOG; removes authority in ss (2)(w), (3) and (4) for SBE to approve new professional or doctoral level degrees, limited access university programs, or baccalaureate degrees exceeding 120 hours; requires SBE to formulate a statewide strategic plan for public schools and community colleges in coordination with BOG plans; requires SBE to issue joint report with the BOG addressing long-range plans and now includes financial aid information as part of the plans; removes reference to the Council for Education Policy Research and Improvement; clarifies that SBE will only establish procedures for community college president evaluations; requires that the information system established to maintain community college data be undertaken in conjunction with the BOG; limits SBE's ability to establish criteria for new campuses to community colleges only; removes SBE's review of universities' annual reviews; prohibits SBE from amending the BOG's 3-year list of capital outlay funding priorities; removes universities from scope of standards established by the SBE to ensure coordination; adds requirement that all credits accepted for an associates degree towards a baccalaureate degrees issued by community colleges be in the statewide course numbering system.

Section 69. Amends s.1001.03, specific powers of the SBE; to require SBE to develop accountability measures and processes in conjunction with the BOG regarding the SUS. This section also removes the SUS from enforcement measures in ch. 1008; allows SBE to continue collecting and maintaining management information databases for universities, but now in conjunction with the BOG; allows SBE to continue implementing a common placement test, but now in conjunction with the BOG and removes SBE's authority to conduct cyclic review of university academic programs.

Section 70. Amends the Commissioner of Education's general powers found in s. 1001.10; by removing SUS from the scope of the Commissioner's authority. This section also moves language stating that the Commissioner's office shall operate all statewide functions necessary to support the SBE and removes reference to K-20; requires Commissioner to include estimates for expenditures in the coordinated K-20 budget; removes reference to the SBE being the body corporate responsible for the supervision of the system of public education and UBOTs being

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responsible for university and student performance and requires that Citizens Information Center provide information about K-12 scholarship programs and VPK; includes K-12 scholarship programs and VPK in the annual report.

Section 71. Amends other duties of the Commissioner in s. 1001.11. It requires the Commissioner to process PECO requests for postsecondary projects in cooperation with the BOG; removes reference to UBOTs when requiring Commissioner to work integrally with boards of trustees; moves reference to the Council for Education Policy Research and requires coordination with the BOG on capital outlay funding priorities;

Section 72 Amends s. 1001.20 to clarify Inspector General's duties.

Section 75. Amends s. 1001.64 to establish BOG's duties and compensation for board members.

Section 76. Creates s. 1001.706 to outline powers and duties of BOG, including general provisions, organization and operation of universities, finance, personnel, property, compliance with regulations and cooperation with other boards. The BOG is prohibited from assessing fees on universities unless specifically authorized by law.

Sections 77, 78 and 86. Amends ss. 1001.71 and 1001.72 to remove reference to operation and structure of UBOTs and instead state that UBOTs are part of the executive branch of state government.

Section 80. Is a comprehensive revision of s. 1001.74 on powers and duties of UBOTs with respect to relationship with BOG, operation of universities, finance, accountability, personnel, property, compliance with laws, and delegation of powers and duties.

Section 83. Amends the new program approval section of 1004.03 to make reference to BOG.

Section 85. Amends s. 1004.07's process for student withdrawal due to military service. The SBE will now establish guidelines upon which school districts and community colleges shall base their own rules, and the BOG will establish guidelines for UBOTs to promulgate rules.

Section 87. Amends s. 1004.22 to give BOG oversight over universities' establishment of divisions of sponsored research.

Section 89. Amends s. 1004.28 to state that UBOTs must follow BOG rules with respect to direct support organizations and removes student fee revenues collected under s. 1009.25 from the definition of "property" which may be used by direct support organizations.

Articulation, Course Numbering and Program Requirements

Section 111. Includes the BOG in articulation requirements and roles found in s. 1007.01; both the BOG and SBE shall recommend guidelines to the Legislature.

Section 112. Amends s. 1007.22 to encourage UBOTs, community college boards of trustees, and district school boards to establish programs to maximize articulation.

Section 113. Amends s. 1007.23 to require SBE and BOG to enter into a statewide articulation agreement which the SBE will then adopt by rule; amends subsection (2) to remove requirements relating to admission being granted for students who have successfully completed 60 credit hours of coursework including 36 hours of general education.

Section 114. Amends statewide course numbering system requirements in s. 1007.24 to require the SBE to develop and coordinate a system in conjunction with the BOG and receive input from the BOG when approving course levels.

Section 115. Amends s. 1007.25 to transfer responsibility for general education courses, common prerequisites and degree requirements from SBE to BOG.

Section 116. Amends s. 1007.2615 to clarify use of American Sign Language credits.

Section 117. Amends s. 1007.262 to clarify foreign language competence and equivalence.

Section 118. Amends s. 1007.264 to require SBE and BOG to consult on the adoption of their own rules on admission of impaired and learning disabled students.

Section 119. Amends s. 1007.265 to require SBE and BOG to consult on the adoption of their own rules for graduation, and program admission of impaired and learning disabled students.

Section 120. Updates s. 1007.27's reference to articulation agreements for accelerated articulation and removes obsolete language.

Section 121. Amends s. 1007.28 to require the SBE, in conjunction with the BOG, to establish and maintain the computer-assisted student advising system, and for the articulation agreement to include the roles and responsibilities for the system.

Accountability and Information

Section 123. Amends s. 1008.29 to require the SBE to work in conjunction with BOG in establishing CLAST passing scores and exemptions; authorizes SBE and BOG to set exam fees.

Section 124. Amends s. 1008.30 to remove SBE rules on common placement testing and instead require each public institution to provide modifications for students with disabilities; requires SBE to work in conjunction with BOG on a common placement test and college-prep requirements.

Section 125. Amends oversight enforcement of SBE in s. 1008.32 to remove reference to state universities.

Section 126. Amends s. 1008.345 regarding accountability information and CLAST to include the BOG.

Section 127. Amends s. 1008.37 to remove SBE's authority to adopt rules on post-secondary feedback of information to high schools and requires Commissioner to report to BOG on the performance of first-time postsecondary students.

Section 128. Amends s. 1008.38 to require the SBE to work in conjunction with the BOG to develop articulation accountability measures.

Section 130. Amends s. 1008.46 to require the BOG rather than the SBE to issue an annual articulation accountability report.



Tuition, Fees and Financial Aid

Section 131. Amends the definition of "out-of-state fee" in s. 1009.01 to mean a fee that is charged for a student who does not qualify for in-state tuition.

Section 132. Amends s. 1009.02 to give the BOG authority to adopt rules regarding residency.

Section 133. Amends s. 1009.24 to direct that tuition and fees shall be deposited pursuant to s. 1011.42; gives BOG rather than SBE authority to adopt rules on this section; requires that a state university not charge fees except for those authorized by law.

Section 134. Amends s. 1009.26, to give BOG rather than SBE responsibilities relating to fee waivers; removes SBE's authority to promulgate rules; allows UBOTs to waive tuition and out-of-state fees in certain conditions and make an annual report to BOG on those waivers.

Section 135. Amends s. 1009.27, relating to deferral of fees, to remove reference to SBE rules.

Section 136. Amends s. 1009.285, removing reference to SBE rules on repeated enrollment in course.

Section 137. Amends reference in s. 1009.29 from SBE to State Board of Administration with respect to increased fees for funding of financial aid programs.

Section 138. Amends s. 1009.40 to include reference to tuition assistance grants in eligibility requirements.

Section 139. Amends s. 1009.90 to include BOG as a recipient of DOE's report that recommends financial aid distributions; includes reference to BOG for fee setting and other reporting.

Section 140. Amends s. 1009.91 to require an annual report to BOG on assistance programs and DOE activities.

Financial Matters and Budgeting

Section 21. Under s. 215.16, if appropriations from General Revenue for schools, colleges and universities cannot be paid in full, the appropriations are to be diminished in the same proportion as appropriations for all other purposes from General Revenues. This section now excludes the administrative budgets of the BOG and DOE from the calculation.

Section 22. Section. 215.32(2)(b)4.b. exempts certain trust funds from having cash balances transferred to other funds. The section amends the law to include trust funds managed by the BOG in the exemption.

Section 33. Amends s. 280.02(23) to include state universities' funds in the definition of "public deposit."

Section 40. Amends s. 288.705 to include BOG in list of entities that will collaborate with the Florida Black Business Investment Board.

Section 142. Amends s. 1010.01 relating to uniform records and accounts to transfer responsibilities relating to state universities from the SBE to BOG; requires a uniform classification of accounts for both boards, and requires universities to file financial statements with the BOG.



Section 143. Amends the definitions for financial matters and planning and budget in s. 1010.11, F.S.

Section 144. Amends s. 1010.02 relating to financial accounting to transfer responsibilities for the SUS from SBE to BOG.

Section 145. Amends s. 1010.04 to transfer authority over purchasing for state universities from SBE to BOG.

Section 146. Amends s. 1010.07 to transfer authority over bonding and insurance for state universities from SBE to BOG.

Section 147. Amends s. 1010.09 to transfer authority over policy relating to direct support organizations at state universities from SBE to BOG.

Section 148. Amends s. 1010.30 to clarify that state universities are under the supervision of the BOG.

Section 149. Amends s. 1011.01 to transfer authority over the budgeting system at universities from SBE to BOG and requiring coordination between the two boards.

Section 150. Amends s. 1011.011 relating to the capital outlay budget request to require the SBE to work in conjunction with the BOG for the universities' budget request for educational facilities construction and fixed capital outlay needs.

Section 151. Amends s. 1011.40 to transfer authority over budgeting at universities from SBE to BOG and providing for direct university distribution of appropriated funds.

Section 152. Amends s. 1011.41 relating to university appropriations, to include a contingency provision requiring compliance with certain tuition and fee policies and provide that failure by one university to comply will not affect others.

Section 153. Amends s. 1011.4106 relating to trust fund dissolution, to provide requirements for the expenditure of tuition and fees from local accounts.

Section 155. Amends s. 1011.42 relating to university depositories to authorize certain fund transfers.

Section 156. Amends s. 1011.48 to transfer authority over the establishment of research centers for child development from the SBE to the BOG.

Section 158. Amends s. 1011.90 to transfer authority over state university funding from the SBE to the BOG.

Section 159. Amends s. 1011.91 to transfer authority over filing budgets from the SBE to the BOG and transfer authority over approval of the operating budget for concession fees from the SBE to UBOTs.

Section 160. Amends s. 1011.94, relating to the Trust Fund for University Major Gifts to redesignate the section as the University Major Gifts Program, remove references to trust funds and New College and replace references to the SBE with the BOG.



Employment and Personnel

Section 11. Amends 112.3135, F.S., dealing with the restriction on employment of relatives and excludes institutions under the jurisdiction of BOG from the definition of "agency."

Section 52. Changes the definition of "public employer" or "employer" in s. 447.203 from the University Boards of Trustees to the BOG.

Section 161. Amends s. 1012.01 to limit definitions for purposes of personnel.

Section 162. Amends s. 1012.80 relating to disruptive activities by employees to authorize BOG to adopt policies applicable to state universities.

Section 164. Amends s. 1012.93 relating to state university faculty members and the requirement of English proficiency by removing this from the jurisdiction of the SBE. The BOG is authorized to approve tests that can be used to establish proficiency in English.

Section 165. Amends s. 1012.98 to remove reference to an obsolete program relating to physical education teacher preparation.

Educational Facilities and Property

Section 29. Amends s. 253.381 to remove reference to SBE and gives the Board of Trustees of the Internal Improvement Trust sole authority to make sales and equitable divisions of unsurveyed marshlands.

Section 30. Removes reference to the Board of Regents as an entity authorized to replace buildings destroyed by fire under s. 255.02.

Section 31. Removes the Board of Regents as an entity that participates in the Art in State Buildings provisions of, s. 255.043.

Section 37. Amends s. 288.15(5)(d) to include the BOG in the list of entities authorized to cooperate with the Division of Bond Finance with respect to the acquisition, construction and maintenance of public facilities.

Section 166. Amends s. 1013.01 to exclude the BOG from the definition of "board" in the educational facilities chapter.

Section 167. Amends s. 1013.02 to transfer authority over facilities policies for state universities to the BOG.

Section 168. Amends s. 1013.03 to provide separate responsibilities over facilities for the SBE and BOG over their areas of authority.

Section 169. Amends s. 1013.11 to provide for the Chancellor of the SUS to provide and receive reports on postsecondary assessments of physical plant safety.

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Section 170. Amends s. 1013.12, to transfer responsibility for overseeing policies relating to safety, casualty, sanitation, fire safety, and inspection of property from SBE to BOG and requiring both boards to receive an annual report.

Section 171. Amends s. 1013.15 relating to the lease, rental and lease-purchase of educational facilities and sites, subject to lease or lease-purchase agreements entered into by UBOTs.

Section 172. Amends s. 1013.16 relating to conditions for construction of facilities on leased properties to require leases executed by UBOTs to be subject to 1010.62.

Section 173. Amends 1013.17 relating to university leasing in an affiliated research and development park to transfer responsibilities of the SBE to the BOG and subject leases to 1010.62.

Section 174. Amends s. 1013.171 relating to university lease agreements for land and facilities to authorize UBOTs to enter into certain agreements, and to transfer responsibilities of the SBE to the BOG.

Section 175. Amends s. 1013.19 relating to the purchase, conveyance or encumbrance of property interests above the surface of land and joint-occupancy structures, to subject any contract executed by UBOTs to s. 1010.62.

Section 176. Amends s. 1013.25 relating to when a university or community college board of trustees may exercise eminent domain; to require approval by the Administration Commission rather than the BOG.

Section 177. Amends s. 1013.28 relating to the disposal of property for which a state university and UBOT holds title; and transferring responsibilities for rulemaking in this area from SBE to BOG.

Section 178. Amends s. 1013.31 relating to educational plant surveys, localized need assessments and PECO project funding to eliminate reference to DOE offices. The bill removes references to SBE rules and the term "college"; describes the SUS Chancellor's duties; and requires BOG to approve university surveys.

Section 179. Amends s. 1013.46 to remove reference to SBE rules dealing with advertising and awarding contracts.

Section 180. Amends s. 1013.47 to include reference to BOG rules regarding contracts, bonds and penalties.

Section 181. Amends s. 1013.52 to include BOG or the SUS Chancellor in the educational entities that may approve cooperative development and joint use of facilities agreements with other educational entities.

Section 182. Amends s. 1013.60 to require the SBE to include information approved by the BOG in the comprehensive budget request for educational facilities.

Section 183. Amends s. 1013.64 relating to funds for comprehensive educational plant needs and construction cost maximums for school district capital projects to transfer responsibilities relating to state universities from the SBE to the BOG.

Section 186. Amends s. 1013.78 to further qualify exception from legislative approval for facility acquisition.



Miscellaneous Provisions

Section 19. Amends s. 159.706 to include counties designated by the BOR as a research and development authority prior to July 1, 2001, in the grandfather provision allowing the continued exercise of powers.

Section 23. Amends s. 215.559(4) to direct funds to Florida International University for hurricane research. Sections 59 and 60 amend s. 627.06281 to reference the center.

Section 55. Amends s. 464.0196, Fla. Stat. to change the appointing authorities for appointing members to the board of the Florida Center for Nursing.

Section 82. Amends s. 1002.31 to make home education students eligible for admission to universities in accordance with BOG policies rather than s. 1007.261.

Section 105. Removes the requirement in s. 1006.53 that universities' policies on religious observance comply with SBE rules on the subject.

Sections 106 -108. Amends ss. 1006.60 through 1006.62 to include BOG rules and policies in the category of violations that may be disciplined by universities and to which students must agree to abide by.

Section 109. Amends s. 1006.56 to require the BOG to adopt rules on health and safety on university campuses.

Section 110. Amends s. 1006.71 to split the authority to oversee gender equity in college athletics between the SBE and BOG for community colleges and universities, respectively.

Sections 188 and 189. Repeal several statutory provisions deemed no longer necessary under the new governance structure: s. 186.805, 1004.54, 741.03055, 741.03056, 1001.75, 1007.261, 1007.31, 1007.32, 1008.51, 1011.4105, 1012.92, 1012.94, and 1012.95.

Administrative Rules and Proceedings

Section 13. Amends the definition of "agency" and "educational unit" in s. 120.52, F.S. to include the BOG and university boards of trustees "when acting pursuant to statutory authority derived from the Legislature." This clarifies that the BOG and UBOTs are subject to provisions of the Administrative Procedures Act.

Section 14. Amends s. 120.65, F.S., to include the BOG as an entity that must reimburse the Division of Administrative Hearings for administrative law judge services and travel expense.

Section 187. Provides that if BOG or UBOTs repeal any rules in Title 6C, F.A.C., the rules must be repealed pursuant to Chapter 120.

Updating Terminology or Removing Obsolete References

Sections 4, 5, 7, 8, 9, 10, 12, 15, 16, 17, 18, 25, 26, 27, 28, 32, 34, 38, 41, 43, 44, 45, 46, 47, 50, 51, 53, 54, 56, 57, 62, 63, 73, 79, 81, 84, 88, 89, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100, 101, 184 and 185 replace references to other entities with the Board of Governors without any substantive change.

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Sections 2, 16, 20, 36, 48, 49, 102, 103, 104, 122, 129, 141, 163 and 178 remove references to the previously abolished Division of Colleges and Universities, State Board of Community Colleges or Council for Education Policy Research and Improvement.

Section 56, 57 and 58 change references from “community colleges” to “community college boards of trustees” without any substantive change.

Sections 6, 24, 35, 39, 61, 67, 74, 154, 157, 184 and 185 amend statutory references or definitions without any substantive change.

General Implementation Timeline:

In many instances where the SBE had sole authority over establishing rules or program oversight, it must do so now in conjunction with the BOG. For programs where rules or policies already exist (such as established CLAST minimum passing scores or statewide course numbering) there will need to be consideration of how the two entities will coordinate their respective roles. Both Boards will need to amend, repeal and/or promulgate rules and execute an articulation agreement. While there are no specific timelines on these actions, they should be done in a coordinated and reasonably prompt manner to carry out the statutory intent.