



LegisLetter

FLORIDA STATE UNIVERSITY GOVERNMENTAL RELATIONS

Volume Seventeen / Number Three • March 21, 2011

Even though this is just the third week of the nine-week legislative session, the legislature has already sent the Governor a major bill to sign the one that would tie the pay of K-12 teachers to their students' performance on standardized tests. Delivered late last week, Governor Scott has promised to sign the bill (**see Spotlight on Bills**). This legislation is similar to the bill passed last year (Senate Bill 6) that was vetoed by Charlie Crist after an outpouring of constituent objections.

The House and Senate Higher Education Appropriations Committees released their first round of budget proposals last week. The House suggests a 5% base tuition increase and a roughly 10% budget decrease while the Senate version has no tuition increases and a 2.9% spending cut for public universities compared the current fiscal year (**see related story**).

A bill pertaining to state-employee pension changes received its first hearing in the House on Thursday. At this point, the State University System Optional Retirement Plan (SUSORP) remains intact, while the Cost Of Living Adjustments (COLAs), which were initially eliminated in the House bill, have been amended back in and remain unchanged. Included in this newsletter is a side-by-side comparison of the current House and Senate bills that address proposed changes to the state pension plan.

Our "Advocate for Florida State" website, which provides a means for staying connected to state-government issues that affect your university, launched with great success last week. If you have not already signed up to receive its action alerts, please do so! The process is simple and there is no cost involved. Simply visit www.advocateforfloridastate.fsu.edu and follow the sign-up directions. This service was developed in partnership with the university Alumni Association and Foundation, and is intended to facilitate alumni and friends as well as faculty, students and staff on every FSU campus having their voices heard during the legislative session, as well as other times of the year.

As always, please feel free to contact me if you have questions about issues moving through the legislative process. I can be reached at (850) 644-4453 or kdaly@fsu.edu.

Kathleen

Latest Budget Estimates

Last Friday, state estimators forecast an additional \$135 million reduction in revenue for the coming fiscal year, adding to the previously projected decrease of approximately \$3.62 billion. Consequently, the budget shortfall now stands at \$3.75 billion, with this latest estimate coming just at the time lawmakers are crafting their spending plan for the budget year that starts July 1 (**see related story**).

A slower than expected economic recovery and low revenue-growth rates were cited as key reasons for the additional shortfall. Among the latter, lower sales tax and corporate income tax revenues were projected to be primary factors in the overall decline.

Also on Friday, Senate Budget Chairman J.D. Alexander (R-Lake Wales) said he still expects lawmakers will give Governor Rick Scott at least a portion of what he has asked for in tax reductions, including a decrease to the corporate income tax rate and the elimination of property taxes designated for education.

PENSION REFORM COMPARISON

	House Bill 1405	Senate Bill 1130																
Defined Contribution Plan	Florida Retirement System Investment Plan Employee contributions required	Enrollment is compulsory for members of the Elected Officers Class, the Senior Management Class, and any member of any class for which the starting salary of the position in which the member is employed is in excess of \$75,000. Members of the State University System Optional Retirement Program will begin paying contributions July 1, 2011. The member will pay the amount of the employee contribution provided by law.																
Defined Benefit Plan	Florida Retirement System Pension Plan Employee contributions required	Florida Retirement System Pension Plan - enrollment available for employees earning less than \$75,000 Employee contributions required																
Employer Contributions	Required employer retirement contribution rates for each membership class and subclass of the Florida Retirement System for both retirement plans are as follows: <table border="0"> <thead> <tr> <th><u>Membership Class</u></th> <th><u>% of Gross Compensation</u></th> </tr> </thead> <tbody> <tr> <td>Regular Class</td> <td>5.23%</td> </tr> <tr> <td>Special Risk Class</td> <td>11.63%</td> </tr> <tr> <td>Special Risk Administrative & Support Class</td> <td>6.39%</td> </tr> <tr> <td>Elected Officers' Class</td> <td>5.95%</td> </tr> <tr> <td>Elected Officers-Judges</td> <td>7.26%</td> </tr> <tr> <td>Senior Management Class</td> <td>5.63%</td> </tr> <tr> <td>DROP</td> <td>11.14%</td> </tr> </tbody> </table> Employer contribution – actuarial funding of plan See pages 172-173 of HB 1405 re 2011 and 2013	<u>Membership Class</u>	<u>% of Gross Compensation</u>	Regular Class	5.23%	Special Risk Class	11.63%	Special Risk Administrative & Support Class	6.39%	Elected Officers' Class	5.95%	Elected Officers-Judges	7.26%	Senior Management Class	5.63%	DROP	11.14%	The member's employer will pay the difference between 10.43% of the member's gross monthly compensation and the amount of the member's contribution.
<u>Membership Class</u>	<u>% of Gross Compensation</u>																	
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Employee Contributions	Beginning 7/1/11, each employee shall contribute the contributions required in (3). The employer shall deduct the contribution from the employee's monthly salary, and the contribution shall be submitted to the Division of Retirement. The employee shall not have the option of choosing to receive the contributed amounts directly instead of having them paid by the employer to the plan. Such contributions are mandatory and each employee shall be considered to consent to payroll deductions. (3) Required employee retirement contribution rates for each membership class of the Florida Retirement System for both retirement plans are as follows: <table border="0"> <thead> <tr> <th><u>Membership Class</u></th> <th><u>% of Gross Compensation</u></th> </tr> </thead> <tbody> <tr> <td>Regular Class</td> <td>5%</td> </tr> <tr> <td>Special Risk Class</td> <td>5%</td> </tr> <tr> <td>Special Risk Administrative & Support Class</td> <td>5%</td> </tr> <tr> <td>Elected Officers' Class</td> <td>5%</td> </tr> <tr> <td>Senior Management Class</td> <td>5%</td> </tr> <tr> <td>DROP</td> <td>0%</td> </tr> </tbody> </table>	<u>Membership Class</u>	<u>% of Gross Compensation</u>	Regular Class	5%	Special Risk Class	5%	Special Risk Administrative & Support Class	5%	Elected Officers' Class	5%	Senior Management Class	5%	DROP	0%	Employee Contributions – maximum limits Notwithstanding any other provision of law, the amount of employee retirement contributions for any member of the Regular Class or Special Risk Class may not exceed 2% of such member's annual state compensation and the amount of employee retirement contributions for any member of the Senior Management Service Class or Elected Officers Class may not exceed 4% of such member's annual state compensation. Employee Contribution – actuarial funding of plan Employee retirement contributions are not required if the Florida Retirement System reaches or exceeds 100% of actuarial funding. However, employee contributions shall be set for an entire fiscal year for each membership class and subclass of the FRS for both the pension and investment plans. Employee Contributions – FY 2011-12 Effective July 1, 2011, required employee retirement contribution rates for all members for fiscal year 2011-2012 shall be 0% for gross compensation up to and including \$40,000, plus no more than 2% for gross compensation in excess of \$40,000 and up to and including \$75,000, plus no more than 4% for gross compensation that is greater than \$75,000.		
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TOTAL CONTRIBUTION	Effective 7/1/11 allocations from the Florida Retirement System Contributions Clearing Trust Fund to investment plan member accounts, which includes employee contributions as required in s. 121.71(3), shall be 11.25% of gross compensation for a member in the Special Risk Class and 9% of gross compensation for members in all other classes.																	
COLA	No change to current law	No change to current law																
Accrual Value	Reduces the accrual value to 1.60% for each year of service earned after July 1, 2011. Special Risk Class maintains 3%	No change to current law: 1.6% Regular Class; 2% SMS; 3% Elected Officers' Class; 3.3% Judges																

	House Bill 1405	Senate Bill 1130
DROP	Effective 7/1/11, DROP is closed to new participants. Only members whose DROP effective date is prior to 7/1/11 may participate in DROP.	No change to current law
Retiree Health Insurance Subsidy	Beginning July 1, 2011, an eligible participant may not receive a monthly subsidy payment of more than \$150 or less than \$5. Service credit earned on or after 7/1/11 may not be used toward the calculation of the amount of the retiree health insurance subsidy. Effective 7/1/11, employer contributions may not be paid to the optional retirement programs provided in ss.121.35 and 1012.875 or the optional annuity program provided in s. 121.055(6).	No change to current law
Average Final Compensation		For service earned on or after 7/1/11, average final compensation does not include: a. Compensation paid to professional persons for special or particular services; b. Payments for accumulated sick leave made due to retirement or termination; c. Payments for accumulated annual leave; d. Overtime payments paid from a salary fund; e. Bonuses; f. Third-party payments made on and after July 1, 1990; or g. Fringe benefits, such as automobile allowances or housing allowances.
Vesting	no change to current law - 6 year vesting	Effective July 1, 2011, an 8-year vesting requirement shall be implemented for the Florida Retirement System's pension plan.
Appropriation	APPROPRIATION: \$627,103	APPROPRIATION: \$445,125
Health Insurance Plan Authority for State Universities		Each state university, as defined in s.1000.21, FS may develop and implement cost-effective strategies to deliver health care benefits to its employees, including faculty and staff. Each such university may develop health benefit programs, including, but not limited to, group or self-insurance plans, as well as the necessary administrative services required to implement and administer such programs if the annual costs in implementation do not exceed current the year of the state expenditures.
SUS ORP	Remains	Remains
Last Action	Introduced 3/8/11; Gov Ops 3/17	Gov'tal Oversight & Accountability –Fav 12-1 Next: Budget; Floor

The Florida Retirement System (FRS) is a multi-employer, non-contributory pension plan providing retirement income benefits to the 572,000 active and 319,000 retired members and beneficiaries of its more than 900 state and local government public employers. Originally established in 1970 as the successor to the Teachers' Retirement System and the State, and County Officers' and Employees' Retirement System, the FRS is today a combination of five previously separate pension plans. Benefit payments are administered by the Department of Management Services through its Division of Retirement while investment management is undertaken by the Board of Administration. Established as a Section 401(a) government plan under the Internal Revenue Code, its benefits are exempt from federal taxation until received by the employee. As a defined benefit plan, the FRS "Pension Plan" provides retirement income expressed as a percent of final pay. Participants accrue retirement credits based upon their eligibility in one of several membership classes. Years of creditable service multiplied by average final salary multiplied by the accrual rate for the membership class, plus up to 500 hours of annual leave, yield a monthly annuity benefit at normal retirement. The accrual rates range from 1.60 percent for the Regular Class to 3.33 percent for Justices and Judges. For most membership classes normal retirement occurs at the earlier attainment of 30 years' service or age 62.

Budget Comparisons

Last week, both the House and the Senate Higher Education Appropriations Committees released the first glimpse of their budgets. Below are the major proposals currently on the table.

Senate

*Senate allocation for the SUS is \$3.5 Billion – down 2.9% over the current year spending, with no restoration of federal stimulus dollars.

*Emphasizes STEM programs and creates a funding distribution formula by cutting \$129 million from university budgets and re-allocating \$142.8 million. Requires each university to match the distributed funds with private dollars.

*Allocates \$3.4 million for a newly created STEM scholarship

*No base tuition increase

*Increases by \$1 million need based aid

*Reduces the per-student Bright Futures award by \$1,000.00 and encourages families to use the federal tuition tax break.

*Suspends the Challenge Grant and Courtelis matching grant programs indefinitely, starting July 1, 2011.

*Suspends the sale of new pre-paid tuition contracts, except for the STARS program, indefinitely, starting July 1, 2011.

*Allows for students to use their Bright Futures scholarship in the summer under certain circumstances.

*Provides an exemption for the student financial aid portion of the tuition differential fee to allow institutions meeting the costs of all students with financial need the ability to use the residual funds for other undergraduate needs.(Also in House budget

*Requires 100% tuition surcharge for excess credit hours over 115% of the degree requirement, an increase from a 50% tuition surcharge for excess credit hours over 120% of the degree requirement. (Also in the House budget)

*Creates a \$5.00 distance-learning fee to cover the cost of delivery.

*Prohibits the BOG from establishing a direct support organization or foundation, or from using from such organization to pay salaries of Board employees.(Also in the House budget)

*Does not restore federal stimulus to the BOG and provides no other funding increase for the board office.

*Reduces by 14% the Florida Resident Access Grant (FRAG) and drastically reduces by 34.8% the Access to Better Learning Grant (ABLE)

House

*Does not restore the federal stimulus dollars and provides a roughly 10% reduction to E&G General Revenue.

*Provides a 5% base tuition increase with an expectation that the universities will raise differential by an additional 10%.

*Provides an exemption for the student financial aid portion of the tuition differential fee to allow institutions meeting the costs of all students with financial need the ability to use the residual funds for other undergraduate needs. (Also in Senate budget)

* Requires 100% tuition surcharge for excess credit hours over 115% of the degree requirement, an increase from a 50% tuition surcharge for excess credit hours over 120% of the degree requirement. (Also in the Senate budget)

*Revises the eligibility requirements for receipt of the Bright Futures Scholarship award by increasing SAT and ACT scores for Academic and Medallion Scholars, and increases community service hours for Gold Seal Vocation scholars.

*Requires all students to submit a Free Application for Federal Student Aid (FASFA) in order to be eligible for a Bright Futures Scholarship, Florida Resident Access Grant (FRAG) or Access to Better Learning Grant (ABLE).

*Provides that acceleration credits received prior to entering postsecondary education shall be counted in the 120 hours of eligible Bright Futures award credits with an exception for eligibility for graduate coursework.

*Prohibits the BOG from establishing a direct support organization or foundation, or from using from such organization to pay salaries of Board employees.(Also in the Senate budget)

*Reduces the statutory cap, from \$225,000 to \$200,000 from appropriated state funds that can be used for remuneration of SUS and FCS employees.

State university medical school funding

Beginning with fiscal year 2012-2013, a uniform per FTE base amount shall be determined annually in the General Appropriations Act for each 4-year doctor of medicine degree program offered by a state university. Each college of medicine shall uniformly report annual expenditures and outcome data for 4-year doctor of medicine degree programs to the Board of Governors.

Spotlight on Bills

Update on Bills

HB 7019, Education Personnel, by Representative Erik Fresen (R - Miami, FSU Alum), codifies the Race to the Top performance evaluation and educator compensation reforms into law so that school districts and charter schools must sustain implemented reforms. School districts and charter schools must adopt instructional personnel and school administrator performance evaluation systems that rank employees as highly effective, effective, needs improvement/developing, or unsatisfactory. At least 50 percent of an evaluation must be based upon student learning growth. Student learning growth must be measured by statewide assessments, and for subjects and grades not tested on statewide assessments, assessments selected by the district or charter school. School districts and charter schools must adopt a performance salary schedule for instructional personnel and school administrators by July 1, 2014. Districts must negotiate this salary schedule within the parameters set by the bill. Any increases to base salary must be based upon "effective" or "highly effective" performance, rather than seniority or advanced degrees. Initially, the performance salary schedule applies to employees hired on or after July 1, 2014, and instructional personnel on annual contracts as of July 1, 2014. Instructional personnel on continuing or professional service contracts are "grandfathered" into the existing salary schedule, or, at anytime, may opt into the performance salary schedule. The bill discontinues the award of new professional service contracts as of July 1, 2011; annual contracts may only be awarded to newly hired instructional personnel thereafter. The probationary period in an employee's first annual contract is extended from 97 days to one

year. The bill also specifies performance-based criteria for annual contract renewal, and just cause grounds for suspension or dismissal. The bill passed the full House last week and was substituted for the Senate companion, The senate companion, **SB 736 by Senator Stephen Wise (R - Jacksonville)**, which passed the full Senate last week. The bill is awaiting the Governor's signature.

HB 517, Firearms by Representative Chris Dorworth (R - Heathrow), amends the concealed weapons license law to allow a concealed weapon or firearm license-holder to:

- Carry a weapon or firearm openly in addition to carrying it in a concealed manner.

The bill also specifies that concealed weapon or firearm license-holders are not prohibited from carrying or storing a firearm in a vehicle for lawful purposes. A provision allowing open carry and concealed weapons on college and university campuses was amended out of the bill then was reported favorably out of the Criminal Justice Subcommittee last week. The Senate companion, **SB 234 by Senator Greg Evers (R - Crestview)** reported favorably by the Criminal Justice Committee last week. Both the House and Senate bills are now identical and do not include colleges and universities.

SB 632, Postsecondary Education by Senator Steve Oelrich (R - Gainesville, FSU Alum), prohibits the deduction of a service charge from the proceeds of certain local option fuel taxes and requires a percentage of said tax revenues to be deposited in the University Concurrency Trust Fund. The bill was temporarily postponed in the Higher Education Committee last week and is rescheduled for hearing tomorrow. Several amendments are scheduled to be heard, including a provision that will

allow universities to determine how best to disposed of their abandoned property and will allow re-use of some abandoned property. The House companion, **HB 4177 by Representative Larry Metz (R - Eustis)**, is in the K-20 Innovation Subcommittee.

SB 1194, Postsecondary Education by Senator Steve Oelrich (R - Gainesville, FSU Alum), deletes provisions relating to the College-Level Academic Skills Test (CLAST). The bill provides that articulation policies and budget actions be implemented consistently with the practices of the Department of Education and the postsecondary educational institutions and expressed in the collaborative policy efforts of the State Board of Education and the Board of Governors. The bill reported favorably in the Higher Education Committee last week. The identical bill in the House **HB 881 by Representative Leonard Bembry (D - Madison)** is in the in K-20 Competitiveness Subcommittee.

SB 830, Labor and Employment by Senator John Thrasher (R - Jacksonville, FSU Alum), prohibits a state agency from deducting from an employee's wages, dues, uniform assessments, fines, penalties, or special assessments of employee organization or contributions made for purposes of political activity. The bill was amended to further define required authorizations for the expenditure of dues paid and define how paid dues may be expended. The amended bill reported favorably in the Community Affairs Committee last week and is now in the Budget Committee. **HB 1021 by Representative Chris Dorworth (R - Heathrow)** was similarly amended and reported favorably out of the State Affairs Committee and will be heard in the House Budget Committee today.

Spotlight on Bills

SB 7066, Unauthorized Aliens by Senator Anitere Flores (R - Miami),

prescribes multiple requirements relating to unauthorized aliens, including:

- Requiring employers, effective January 1, 2012, to verify the employment eligibility of new employees using the federal E-Verify Program, and authorizing the suspension of an employer's license for failure to comply;
- Directing the Department of Corrections to pursue an agreement with the U.S. Department of Homeland Security for the training of department employees as jail enforcement officers to help enforce federal immigration law, pursuant to section 287(g) of the federal Immigration and Nationality Act ("287(g) agreement");
- Requiring the Department of Law Enforcement to take all steps necessary to maintain its 287(g) agreement with the U.S. Department of Homeland Security, under which department employees are trained as task force officers;
- Encouraging sheriffs to pursue 287(g) agreements;
- Codifying state and local law enforcement participation in a federal program (Secure Communities Program) in which the fingerprints of an arrested person are checked against federal databases to determine the person's immigration status;
- Authorizing the Department of Corrections to release certain criminal aliens convicted of nonviolent offenses to the custody of the federal government as part of the Rapid REPAT Program; and
- Requiring the Agency for Workforce Innovation to quantify the costs to the state related to unauthorized immigration and to seek financial remuneration from the federal government.

The bill passed out of the Judiciary Committee last week. There is no House companion at the time.

SB 1738, State Financial Matters by Senator J.D. Alexander (R - Lake Wales),

requires the Auditor General to annually provide to the Legislature a list of school districts that have failed to comply with certain financial transparency requirements, as identified pursuant to audit. The bill establishes the Agency for Enterprise Business Services within the Department of Financial Services and provides that the Governor and Cabinet act as the Financial Management Information Board. Additionally, the bill establishes the Enterprise Financial Business Operations Council to act in an advisory capacity to the agency. The bill reported favorably out of the Governmental Operations and Accountability Committee last week. A similar bill in the House, **HB 1211 by Representative Charles Van Zant (R - Palatka)** is in the Government Operations Committee.

SB 228, Code of Student Conduct by Senator Gary Siplin (D - Orlando),

requires student conduct codes to include provisions on student dress and style of wearing clothing. District school boards are specifically required to adopt a dress code policy that prohibits students from wearing clothing in a revealing manner or in a way that is disruptive to learning. This bill provides sanctions for violators, which range from a verbal warning and parental notice to in-school suspension. The bill also provides that to maintain eligibility to participate in interscholastic extracurricular activities, students are required to comply with the district school board student conduct code, including the section on dress code policy. The bill reported favorably out of the Budget Committee and is now awaiting hearing by the full Senate. A similar bill in the House, **HB 61 by Representative Hazelle Rogers (D - Lauderhill)** reported favorably out of the K-20 Innovation Committee and is now in the Pre-K 12 Appropriations Subcommittee.

SB 196, Choose Life License Plates by Senator Mike Fasano (R - New Port Richey), provides for the annual use fees to be distributed to Choose Life, Inc., rather than the counties. Additionally, the bill provides for Choose Life, Inc., to redistribute a portion of such funds to

nongovernmental, not-for-profit agencies that assist certain pregnant women. The bill also authorizes Choose Life, Inc., to use a portion of the funds to administer and promote the Choose Life license plate program. The bill reported favorably out of the Transportation Committee last week. A similar bill in the House, **HB 501 by Representative Dennis Baxley (R - Ocala, FSU Alum)** is now in the Economic Affairs Committee.

HB 599, Uniform Prudent Management of Institutional Funds by Representative Kathleen Passidomo (R - Naples), creates the Uniform Prudent Management of Institutional Funds Act, replacing the Florida Uniform Management of Institutional Funds Act found in the K-20 Education Code. Among its key provisions, the bill:

- Makes significant enhancements to provisions currently contained in the Florida Uniform Management of Institutional Funds Act.
- Expands provisions in current law and makes them applicable to charitable institutions other than just those associated exclusively with educational purposes.
- Expands the types of assets in a charitable organization's portfolio.
- Allows pooling of institutional funds for purposes of managing and investing.
- Delineates factors to be considered prior to expenditure of funds.
- Provides new procedures for releasing restrictions on small institutional funds.
- Provides for modification of restrictions on the use of endowment funds.

The provisions contained in the bill would apply to a non-educational direct-support organization only if it held a fund exclusively for charitable purposes. The bill makes Florida's not-for-profit law consistent with national standards, which have already been adopted by 47 other states.

The bill reported favorably out of the Insurance and Banking Subcommittee last week and is now in the Civil Justice Subcommittee. A similar bill, **SB 952 by**

Senator Garrett Richter (R - Naples), will be heard in the Senate Commerce and Tourism Committee tomorrow.

SB 716, Corporate License Plates by Senator Mike Fasano (R - New Port Richey), creates a corporate license plate program within the Department of Highway Safety and Motor Vehicles. The program would allow corporations to sponsor a corporate license plate displaying the corporation's logo. Vehicle owners would be allowed to apply for a corporate license plate and if approved, register their vehicle at 50% of the normal price. The sponsoring corporation would remit no less than \$75 to the department or each approved application, which under the current registration fee structure would pay the remaining 50% of the vehicle's registration. A similar bill in the House, **HB 473 by Representative Jeffery Brandes (R - St. Petersburg)** is now in Transportation & Highway Safety Subcommittee.

SB 318, Postsecondary Student Fees by Senator Gary Siplin (D - Orlando), provides that beginning with the 2011 fall

term, an undocumented student, other than a nonimmigrant alien, is exempt from paying nonresident tuition at a state university or Florida College System institution if the student meets the following requirements:

- Attended high school in Florida for 3 or more years;
- Graduated from a Florida high school or attained high school equivalency;
- Registered as an entering student or is currently enrolled at a state university or Florida College System institution;
- Files an affidavit stating that the student has filed an application to legalize his or her immigration status or will do so as soon as he or she is eligible.

The bill also directs the Board of Governors to adopt regulations and the State Board of Education to adopt rules to implement the nonresident tuition exemption. The bill was temporarily postponed in the Judiciary Committee last week. The identical bill, **HB 55 by Representative Dwight Bullard (D - Cutler Bay)** is now in the K-20 Innovation Subcommittee.

SESSION SCHEDULE

SENATE SESSION

Wednesday, March 23
10:00 a.m. to 12:00 noon

HOUSE SESSION

Thursday, March 24
2:45 p.m. to 11:45 p.m.

Friday, March 25
9:00 a.m. to 6:00 p.m.



THE FLORIDA STATE UNIVERSITY GOVERNMENTAL RELATIONS

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