



# LegisLetter

FLORIDA STATE UNIVERSITY GOVERNMENTAL RELATIONS

Volume Sixteen / Number Nine • April 27, 2010

House and Senate leaders worked all weekend and late into the night on Monday to finalize the almost \$70 billion spending plan for the 2010-11 fiscal year.

At times during the long and arduous budget conference process the news was good, at other times, not so good. But it was at all times a clear case of "beat the clock." Because the budget must "cool" for 72 hours before the final vote can be taken, the budget must be placed on legislators desks by this afternoon to "start the clock" for a reasonable completion time on Friday.

The good news is state employees will not receive an anticipated pay cut. And workers won't have to contribute one-quarter of 1 percent of their gross income into the pension fund, as was being discussed over the weekend. Employees will, however, contribute to their health benefits if they are not doing so now. **See a full listing of other pay and benefits changes in this newsletter.**

In the not so good category, proviso restricting university personnel from traveling to terrorist states passed, as did proviso prohibiting the use of state money for human embryonic stem cell research. **(Please see related budget story.)**

The budget agreement reached late Monday comes months after lawmakers were first told that the state had a gaping \$3.2 billion budget hole for the coming year. That gap was filled in numerous ways, including a decision to sweep nearly \$600 million out of various trust funds, including \$160 million from the state's road-building fund. The state is also getting more than \$400 million from a gambling compact reached with the Seminole Tribe of Florida. The rest of the gap was filled by budget cuts, such as slashing the reimbursement rates to hospitals, or relying on close to \$40 million that will come from a new proposal that will let cities and counties install red light cameras at certain intersections around the state.

This last week of session is reserved for the flurry of bills and amendments passing back and forth between the House and the Senate, some of which will make their way to the Governor. One such bill is the BOG settlement bill, which will pass the Senate and go to the Governor tomorrow. The University Board of Trustees members will be confirmed by the Senate sometime before sine die on Friday as well.

There will be a wrap-up Legisletter next week, and a final letter after the Governor issues budget vetoes. As always, please feel free to contact me if you have questions or need further information. I can be reached at **(850) 644-4453** or **kdaly@fsu.edu**.

*Kathleen*

# Budget Summary

Late last night the legislative leaders concluded their work on the nearly \$70 billion state budget for the 2010-11 fiscal year.

Below is a preliminary summary of allocations and proviso language:

## Operating Budget SUS Summary:

- For the SUS, the total operating budget will increase about 5% over the 2010-11 budget. This takes into account a reduction in base state funds, tuition increases, and some additional state funds for select initiatives. The major points are as follows:
  - There was a recurring general revenue base budget reduction of \$52 M; however, this was offset with additional recurring lottery revenue of \$20.5 M and non-recurring general revenue of \$12.2 M. Thus the net state base budget reduction is about \$19 M (or 1%).
  - The base undergraduate tuition will increase 8%, with the assumption that universities will utilize the maximum tuition differential of 7%. This total 15% increase in tuition would generate approximately \$80 M.
  - \$10 M in non-recurring is provided for New Florida.
  - \$5 M (\$1 M each medical school) in non-recurring is provided for basic medical program support.
  - \$14.5 M is provided for plant operations and maintenance funding for new facilities coming on-line in 2010-11.
  - \$3.9 M is provided for Year 4 phase-in of the UCF & FIU medical schools.
  - \$16.8 M to cover contribution increases in the employer share of the Florida Retirement System.
  - \$18.8 M in recurring general revenue was provided to help offset federal stimulus.
  - \$146 M was provided for Year 2 federal stimulus (\$161 M was provided in 2009-10).
- **State University Fees** – Authorizes all universities, subject to approval by the university board of trustees, to increase the sum of the activity and service, health, and athletic fees up to 15%, or the amount required to reach the FY 2009-10 statewide average for the aggregate sum of these fees, whichever is greater, for FY 2010-11. Authorizes the sum of these fees to increase each year by 5% or the same percentage increase in tuition authorized by the Legislature, whichever is greater.
- **Florida's Bright Futures Scholarship Program** - From the funds in Specific Appropriations 3 and 64As and contingent upon section XX becoming law, the award per credit hour or credit hour equivalent enrolled for the 2010-2011 academic year shall be as follows:

### FOUR-YEAR INSTITUTIONS

Academic Scholars Award	\$125
Medallion Scholars Award	\$ 94
Gold Seal Vocational Scholars Award	\$ 94

### TWO-YEAR INSTITUTIONS

Academic Scholars Award	\$ 77
Medallion Scholars Award	\$ 77
Gold Seal Vocational scholars Award	\$ 58

### UPPER-DIVISION PROGRAMS

#### OFFERED BY FLORIDA COLLEGES

Academic Scholars Award	\$ 86
Medallion Scholars Award	\$ 64
Gold Seal Vocational Scholars Award	\$ 64

The additional stipend for Top Scholars shall be \$53 per credit hour.

The funds provided from General Revenue are contingent upon Florida being eligible to receive federal funds, based on the state's Federal Medical Assistance Percentage (FMAP), in excess of the February 2010 official Social Services Estimating Conference. In the event Florida does not these funds, the Department of Education shall prorate the award per credit hour pursuant to section 1009.53(4), Florida Statutes.

## • Educational and General Activities –

- Funds provided in Specific Appropriations 11 through 15 and 131 through 143 shall not be used to support human embryonic stem cell research. This provision shall not apply if the cell or cells in question originated from a source other than a human embryo.
- Funds provided in Specific Appropriations 11 through 15 and 131 through 143 shall not be used to implement, organize, direct, coordinate, or administer, or to support the implementation, organization, direction, coordination, or administration of activities related to or involving travel to any state, country, or nation designed by the United States Department of State as a state sponsor of terrorism.

## • PECO – FSU

Utilities/Infrastructure/Capital Renewal	\$ 5,550,848
College of Law Remodeling and Expansion	\$12,900,000
Applied Science Building	\$11,000,000
FAMU/FSU College of Engineering, III	\$ 4,199,136

- **State University System Enrollment Plan** - The Chancellor of the State University System shall submit a revised 3-year state university enrollment plan by lower, upper, graduate I and graduate II levels, by university, to the Board of Governors by September 1, 2010. This revised 3-year enrollment plan must be developed with input from each state university. The Chancellor shall also recommend to the Legislature a funded enrollment plan based on actual enrollments and the funds appropriated to each university. This new funded enrollment plan must be developed with input from each university. The plan shall be submitted to the chair of the Senate Policy and Steering Committee on Ways and Means and the chair of the House Full Appropriations Council by February 1, 2011.
- **State University Medical School Funding per FTE** - FSU Medical School From the funds in Specific Appropriations 13 and 136, the university shall allocate a minimum of \$55,000 in base state support for each resident FTE enrolled in the Doctor of Medicine Degree Program.

While we have not been able to get the printed information on salaries and benefits, they agreed on the following during the budget conference: No pay cuts were agreed upon for this year, and the .25% employee contribution for FRS went by the way-side in the budget process. However, SB 2022 still contains the provision, but has not yet passed. Those employee classes that currently pay nothing for their health benefits (including legislators) will now pay modestly (\$100.00 per month single, \$360 family, \$180 spouse program), effective July 1, 2010. Co-pays were increased, with incentives toward generics. Retirement health supplements and life insurance offerings were also addressed, but again, still trying to get the fine details. Life Insurance is \$25,000, and retiree health supplements will not go up beyond 10% per year, but that is all the detail I have at this time.

# Spotlight on Bills

**SB 622, Gaming by Senator Dennis Jones (R – Seminole)**, ratifies a proposed compact executed between the Governor and the Seminole Tribe of Florida on April 7, 2010. The Governor is required to cooperate with the Seminole Tribe in seeking approval of the compact by the Secretary of the United States Department of Interior. The bill amends the Governor's authority to negotiate compacts and the procedures for transmitting such documents to the Legislature. The bill also provides that the Seminole Tribe is authorized to conduct gaming activities permitted under the compact that are not otherwise permitted under Florida law; furthermore, participation in such activities is not a crime. The bill also directs the Department of Business and Professional Regulation to adopt minimum standards for slot machine licensee's employment of or contract for security personnel. This bill changes the effective date of the pari-mutuel provisions contained in earlier legislation enacted as chapter 2009-170, Laws of Florida. The pari-mutuel provisions are already law; however, they have not yet taken effect, because the legislation tied the pari-mutuel provisions to events related to the compact. The bill amends the effective date of the pari-mutuel provisions contained in ch. 2009-170, LOF, to be effective upon becoming law. The ratification of the compact would have a positive net fiscal impact on state and local revenues. The changes in the effective date to ch. 2009-170, LOF will have a positive fiscal impact to General Revenue, but a negative fiscal impact on State Trust Funds, specifically, the Education Enhancement Trust Fund. The bill also deletes the provisions directing the revenues from the compact to the Education Enhancement Trust Fund and redirects the state's portion to the General Revenue Fund. The bill further provides a distribution formula for local government revenue sharing. The bill was passed by the Legislature and sent to the Governor for signature.

**HJR 37, Health Care Services by Representative Scott Plakon (R – Longwood)**, proposes the creation of the Health Care Freedom Constitutional Amendment in Section 28 of Article I of the Florida Constitution. Specifically the constitutional amendment:

- Prohibits persons and employers from compelled participation in a health care system;
- Allows direct payment of health care services and prohibits penalizing persons, employers and health care providers from utilizing a direct payment system;

- Allows the purchase or sale of health insurance in the private market, subject to certain conditions;
- Does not affect any general law passed by a 2/3 vote of the membership of each house of the Legislature, passed after the effective date of the Amendment, provided that such law states with specificity the public necessity justifying such exception; and
- Exempts laws enacted prior to March 1, 2010, from requirements of the amendment.
- During final debate on this bill in both the House and the Senate, legislators went on the record saying this will not impact the FSU mandatory health insurance policy. The bill passed the Legislature and will go to the Governor for signature. It will then be placed on the ballot in November and will need 60% of voter support to become state policy.

**HB 5201, Postsecondary Education Funding by Representative Bill Proctor (R – St Augustine, FSU Alum), and SB 1344 by Senator Evelyn (R – Ormond Beach)**, these are conforming bills that revise provisions relating to the Children and Spouses of Deceased or Disabled Veterans (CSDDV) Program. The bill clarifies the use of funds, the award amounts, and the eligible institutions at which a recipient may use an award. The bill provides a new process for the coordinated licensing of electronic library resources for use by secondary and postsecondary students. The bill requires that students enrolled in workforce education programs must be classified as residents or nonresidents for tuition purposes. The bill creates an exemption from payment of the state university tuition differential fee for students who are recipients of prepaid postsecondary tuition scholarships. The bill continues the flat award policy for Bright Futures

Scholarships through the 2010-2011 academic year. The bill revises the Workers' Compensation Administrative Trust Fund within the Department of Education, establishing a reversion schedule for any unencumbered and/or undisbursed funds that were transferred from the Department of Financial Services Workers' Compensation Administration Trust Fund. The bill eliminates statutory requirements for separate funding of baccalaureate programs within the Florida College System, allowing for such funding to be transferred to the Community College Program Fund. The bill also creates a requirement for separate reporting of upper-division enrollment and upper-division expenditures. The bill revises provisions relating to workforce education fees to authorize, rather than require, rule adoption by the State Board of Education for the calculation of cost borne by students. The bill aligns the submission date for requests relating to the community college and state university facilities enhancement challenge grant programs with the October 15 legislative budget request submission deadline. The Senate bill was laid on the table and the House bill was taken up in its place. The House bill was amended in the Senate and is in returning messages to the House. The House refused to concur and a conference committee has been appointed.

**HB 7237, Postsecondary Education, by Representative Will Weatherford (R – Wesley Chapel)**, implements the provisions of the governance agreement by amending statutes relating to the operation of the State University System. The bill passed the House on Friday. The Senate companion, **SB 1786 Senator Steve Oelrich (R – Gainesville, FSU Alum)**, is scheduled to be heard by the full Senate tomorrow and is expected to pass to the Governor.



## THE FLORIDA STATE UNIVERSITY GOVERNMENTAL RELATIONS

Kathleen M. Daly, *Assistant Vice President*  
Toni Moore, *Program Coordinator*  
Chris Adcock, *Office Administrator*

**850.644.4453** [www.govrel.fsu.edu](http://www.govrel.fsu.edu)

### **HB 1337, Nursing by Representative Denise**

**Grimsley (R – Sebring)**, authorizes disclosure of certain confidential information required of nursing license applicants to certain persons and provides and revises definitions. The bill revises requirements for graduation from certain nursing education programs for nursing license applicants seeking to take licensing examination; revises restrictions on nursing graduates who may use certain titles and abbreviations, etc. The bill passed out of the House and is in messages to the Senate. The Senate companion, **SB 2530 by Senator JD Alexander (R – Lake Wales)** was taken up in place of HB 1337 and passed to the Governor.

**SB 4, High School Graduation Requirements by Senator Nancy Detert (R - Venice)**, is a high school graduation initiative that:

- Increases the high school graduation requirements, beginning with students entering grade 9 in the following years, to include:
  - Geometry for the 2010-2011 school year;
  - Biology I for the 2011-2012 school year;
  - Algebra II for the 2012-2013 school year;
  - Chemistry or physics for the 2013-2014 school year; and
  - An additional equally rigorous science course for the 2013-2014 school year.
- Requires student passage of statewide, standardized end-of-course (EOC) assessments in the following courses for students entering grade 9 in specified school years:
  - Algebra I, 2011-2012;
  - Biology I and geometry, 2012-2013; and
  - Algebra II and chemistry or physics, 2014-2015.
- Requires student passage of district, standardized EOC assessments for other courses, when they are developed
- Provides for the discontinuation of the Florida Comprehensive Assessment Test (FCAT) for mathematics (Grades 9 and 10) and science (Grade 11), as EOC assessments are implemented, etc.

The bill was signed by the Governor on April 20th and is now Chapter Law 2010-22.

### **CS/CS/HB 723, Postsecondary Education by Representative Mary Brandenburg (D – Lake Worth)**

authorizes a state university or community college to waive tuition and fees for full-time public school classroom teachers for six credit hours per term in undergraduate courses, as space is available. These fee waivers are only available for courses approved by the Department of Education and must relate to special education, mathematics, or science. Additionally, a public school teacher must meet any academic requirements established by the state university or community college and cannot use the fee waiver for courses scheduled during the school day. Additionally, the bill was amended to limit the liability

of state universities for actions or decisions made by its student government, by clarifying “There shall be no cause of action against a state university for the actions or decisions of the student government of that state university unless the action or decision is made final by the state university and constitutes a violation of state or federal law.” The bill passed out of the House last week. A similar bill in the Senate, **SB 2102 by Senator Stephen Wise (R – Jacksonville)** is on the Senate Calendar.

### **SB 1752, Economic Development by Don Gaetz (R – Destin)**

enhances various economic development incentives, tax credits, grants, and exemptions. The bill amends s. 125.045 and s. 166. 021, F.S., requiring counties and certain municipalities to provide an annual report regarding local economic development incentives to the Legislative Committee on Intergovernmental Relations. The bill amends s. 196.1995, F.S, authorizing counties and municipalities to extend certain current economic development ad valorem tax exemptions by referendum.

The bill amends various provisions of ch. 288, F.S., by:

- Providing that Rural Regional Development Matching Grants can be used by economic development organizations for technical assistance to businesses in the rural counties and communities;
- Revising the Qualified Target Industry (QTI) Tax Refund Program allowing for additional credits for businesses in the High-Impact Business sectors, providing for greater oversight and evaluations, and extending the QTI program to June 30th, 2020;
- Revising the guidelines for High-Impact Sector Performance Grant award amounts;
- Providing a process for legislative consultation and review of Quick Action Closing (QAC) fund projects.

The bill also amends s. 290.00677, F.S., revising employee eligibility for rural enterprise zone job credits to include persons residing in a “rural community” rather than a rural county, etc. The bill was substituted for **HB 1509 by Representative Will Weatherford (R – Wesley Chapel)** and read a second time.

### **HB 889, Biomedical Research by Representative Janet Adkins (R – Fernandina Beach)**

deletes outdated or obsolete language relating to the following biomedical research provisions:

- Center for Health Technologies;
- Florida Biomedical and Social Research Act;
- Cervical Cancer Elimination Task Force; and
- The Florida Cancer Council.

The Center for Health Technologies is currently inactive. The Florida Biomedical and Social Research Act became obsolete when section 381.86, F.S., the Institutional Review Board, was enacted by the Legislature in order to comply with federal law and achieved a similar purpose to that of the Biomedical

and Social Research Act. The Cervical Cancer Elimination Task Force statutorily sunset on June 30, 2008. Finally, the Florida Cancer Council was never funded and is currently inactive. The bill was substituted for SB 2100 by Senator Stephen Wise (R – Jacksonville) and passed by the Legislature.

### **HB 1503, Health Care by Representative Anitere**

**Flores (R – Miami)**, repeals obsolete or duplicative provisions in licensing laws, to include expired reports and unnecessary documentation requirements regulated by the Agency for Health Care Administration (AHCA).

The bill makes various changes to the regulation of home health agencies. The bill provides a home health agency patient a bill of rights. Home health agency administrators are required to direct the operation of the home health agency and have qualified alternate administrators. The director of nursing must be available during the hours the home health agency is open. The bill specifies the duties of the director of nursing, registered nurse, licensed practical nurse, therapists and therapist’s assistants in providing home health care and supervision. Home health aides must be competent to provide care to patients. Skilled services must be performed in compliance with state practice acts and the patient’s plan of care. The plan of care is to be reviewed and updated according to specified time frames. The home health agency must provide one type of service directly and may provide other services through arrangements with others if they have a written contract.

The bill creates a rebuttable presumption against a claim of negligence or malpractice by a hospital, its employees, or independent contractors related to a health care-associated infection, if a hospital implements a comprehensive plan to reduce health care-associated infections prior to a patient becoming infected.

The bill eliminates an exemption to the normal Medicaid Managed Care enrollment process for Miami-Dade County. The bill transfers the administration for the Community Health Center Access Program from the Department of Health (DOH) to AHCA.

The bill establishes a new requirement that dentists and dental hygienist complete a dental workforce survey at the time of licensure renewal. Beginning with the 2014 licensure renewal cycle, individuals will not be permitted to renew their license if they do not complete the survey. The bill requires DOH to assume responsibilities for collecting, updating, and disseminating dental workforce data and serve as the coordinating and strategic planning body. The bill creates a dental workforce advisory body. The bill exempts licensed dentists who are part of a professional corporation or Limited Liability Company comprised of dentists from having to obtain a health care clinic establishment permit. The bill provides that the dentist is deemed the purchaser and owner of the prescription drugs. The bill adds a representative of the

Florida Dental Association to the Florida Healthy Kids Corporation board of directors.

The bill creates a physician advisory council. The bill creates a physician workforce graduate medical education innovation pilot project. The bill allows DOH to issue temporary licenses to retired military physicians.

The bill passed out of the House and is in messages to the Senate.

**SB 2022, Florida Retirement System by Senator JD Alexander (R – Lake Wales)**, amends multiple sections of Chapter 121 to:

- Updates the preservation of rights provisions to acknowledge that the members will make contributions to the Florida Retirement System beginning January 1, 2011.
- Defines the terms “termination,” “benefit,” and “payee.”
- Clarifies that only at the time of joining the FRS, newly participating employers have the option to provide benefits based on past service. This section also clarifies that any employer-paid employee contributions are subject to federal FICA taxes.
- Provides that the calculation for determining the contributions necessary for upgrading prior special risk service includes employee contributions.
- Specifies that members of the Elected Officers’ Class will begin paying contributions January 1, 2011. If a member ceases to fill the office for 3 consecutive months for any reason other than retirement, the member is eligible for a refund of the employee contributions; however, by taking such refund the member waives all rights to the service credit under the FRS represented by the refunded contributions.
- Makes a conforming change in recognition of the employee contributions effective January 1, 2011.
- Specifies that members of the Senior Management Service Class will begin paying contributions January 1, 2011. If a member terminates employment for 3 consecutive months for any reason other than retirement, the member is eligible for a refund of the employee contributions; however, by taking such refund the member waives all rights to the service credit under the FRS represented by the refunded contributions.
- Requires participants in the Senior Management Service Optional Retirement Program to make employee contributions effective January 1, 2011. Participants may not take distributions under the program prior to termination for any reason.
- Recognizes that employees and employers will contribute to the FRS. Refunds of employee contributions do not include any interest

earnings, and employer contributions are not refundable. If a defined benefit program member receives an invalid refund, the member must repay the full amount of the invalid refund plus interest.

- Specifies that to purchase prior service performed after December 31, 2010, for which the member received a refund of employee contributions, the member must contribute the required employee contribution plus interest.
- Allows a member to receive a refund of employee contributions once the member has been terminated from covered employment for 3 calendar months.
- Specifies that the cost of any leave of absence purchased after January 1, 2011, will include both employer and employee contributions.
- Clarifies the employer’s obligation to pay and remit employer and employee contributions in a timely manner when an active member returns to work after an injury or illness covered by worker’s compensation.
- Requires participants in the State University System Optional Retirement Program to make employee contributions effective January 1, 2011. Participants may not take distributions under the program prior to termination for any reason.
- Defines “participant contributions” relating to the Public Employee Optional Retirement Program.
- Provides for the deposit of employee contributions into the FRS Contributions Clearing Trust Fund. The Department of Management Services is granted rulemaking authority governing the receipt and disbursement of employee contributions.
- Requires participants as well as the employer to submit retirement contributions.
- Specifies that benefits earned under the Public Employee Optional Retirement Plan may not be payable for any reason prior to termination of employment. In addition, any non-vested accumulations will be forfeited upon payment of any vested benefit to a participant or beneficiary. The section also provides that the distribution payment selected by the participant or beneficiary for normal retirement benefits and the retirement of the participant is final and irrevocable at the time the distribution is made.
- Modifies the stated legislative purpose and intent of the uniform system of funding the FRS to recognize that both employers and employees will be contributing to the system.
- Sets out the employee rates, the employer rates and the rates to fund any unfunded actuarial liabilities payable by the employers. The employers are permitted to deduct the employee contributions from the employee’s monthly gross salary on a pretax basis.

Employee contributions are set at 0.25% of gross salary beginning January 1, 2011. The employer contributions are set to meet the blended normal costs of the FRS (the defined benefit and defined contribution plans combined). The contribution rates for the unfunded actuarial liability are set at 0% for FY 2010-2011 and at the blended UAL rate beginning July 1, 2011. Under current law, the UAL rates will also be imposed upon the optional retirement programs offered for the state university system, the community colleges and the Senior Management Service.

- Clarifies the payment of both employer and employee contributions into the individual accounts of the Public Employee Optional Retirement Program.
- Clarifies the payment of contributions to fund disability benefits under the Public Employee Optional Retirement Program.
- Reduces, for a four-year period, the employer contribution paid to the State Board of Administration for administrative and educational expenses from 0.05% of payroll to 0.03% of payroll. Effective July 1, 2014, the contribution rate will increase to 0.04% of payroll.
- Clarifies that the employer-paid employee contributions are subject to federal FICA taxes.
- Requires employers to remit both the employer and employee contributions. Contributions that are late are subject to a 1% delinquent fee for each month or portion of a month that the contributions should have been paid. If the employer remits excess employer or employee contributions, the employer will receive a credit against future contributions owed. The employer is responsible for reimbursing an employee for excess contributions.
- Specifies that members of the Community College Optional Retirement Program will begin paying contributions January 1, 2011.
- Provides that the act fulfills an important state interest.
- Appropriates \$445,125 from the FRS Operating Trust Fund and authorizes 8 positions for the Division of Retirement to implement the act.

The bill passed the Senate. The House companion, **HB 1307 by Representative Robert Schenck (R – Springhill)** passed out of the House.

**SB 6, Educational Personnel by Senator John Thrasher (R – Jacksonville, FSU Alum)**, revises the contractual requirements for classroom teachers hired beginning July 1, 2010, including the eligibility, duration, and requirements for probationary contracts and annual contracts. The bill also revises requirements for state-approved educator preparation programs. The bill was vetoed by the Governor on April 16.