

*Handout for
Matt Holliday's
"Professional
Development
Report"*



2012 LEGISLATIVE SESSION

PRELIMINARY REPORT

MARCH 13, 2012

PREPARED FOR DISTRIBUTION BY:

- **FLORIDA COLLEGE SYSTEM INSTITUTIONAL LOBBYISTS**
- **ASSOCIATION OF FLORIDA COLLEGES STAFF AND LOBBYISTS**
- **With appreciation: FLORIDA DEPARTMENT OF EDUCATION, DIVISION OF FLORIDA COLLEGES STAFF**

NOTE: This is a draft report pending outcome of any gubernatorial vetoes and any adjustments in calculations by the Florida Department of Education

Session Highlights

With one minute to spare, the Florida Legislature adjourned *sine die* at 11:59 PM on Friday, March 9, 2012. A total of 2052 bills were introduced, although only 292 passed both chambers.

There was good news and bad news for Florida higher education in the 2012 session. Despite a sagging economy and a Legislature facing significant budget deficits, the Florida College System fared well, maintaining current levels of state operating support and receiving additional funds for facilities operations and specific college projects.. The \$70 billion dollar budget included a 2.8 percent increase for the Florida College System over the previous year's budget, and both the House and the Senate agreed to a 5 percent tuition increase. The Governor has the option to accept or reject the proposed tuition increase. However, if he uses his veto pen, Florida Statute provides College Boards of Trustees with the ability to increase tuition based on the consumer price index, which is 3 percent this year.

The state universities faced a far more volatile session, absorbing an almost \$300 million reduction in base funding, expected to be replaced by using fund balances and significant tuition increases. Two universities were granted permission to charge market value for tuition. In addition, the Legislature agreed to the creation of a 12th state university.

Perhaps one of the most difficult aspects of the session was the record number of conforming bills (35) which added pages of statutory changes to both the House and Senate appropriations; along with a number of bills that will have a dramatic impact, if signed into law.

A bill revising the general education requirements for all the State higher education institutions will have a significant impact on college and university curriculum. The required number of general education hours was lowered from 36 to 30 with 15 hours to be standardized across both delivery systems. Foreign language requirements must now be met as part of the graduation requirements for the Associate in Arts degree.

Distance learning, student advising (FACTS), and library support (CCLA and FCLA) were consolidated into one state-wide entity. A pilot distance learning project, targeting students who have begun but did not complete a degree, was also created. This funded project will be carried out by two universities and two colleges, and could have a significant impact on future distance learning activities.

There were several subtle, but important, changes in the Florida college governance system and calls for additional studies regarding higher education governance. The Higher Education Coordinating Council (HECC) have an important role, as recommendations for Florida College System governance could be considered.

The lack of Public Education Capital Outlay funding continued to create problems for the Florida College System, with only very small amount (\$5.3 million) available for maintenance at all 28 colleges. No projects were funded out of PECO dollars, but Lottery bond proceeds were appropriated to fund selected college projects. The final fixed capital outlay list was completely different from those included in each chamber's initial budgets. The Legislature did provide appropriations to backfill the current PECO cash shortage impacting the 2008 and 2010 approved PECO projects.

Finally, for the first time in recent legislative history, of more than 300 gubernatorial appointments slated to be confirmed by the Senate, only seven were confirmed. All other gubernatorial appointments

including hundreds of college and university trustees were not confirmed. The Governor must reappoint within forty-five days, or the appointments expire.

Even though the Session ended on March 9th, a special session was called. The Florida Supreme Court rejected the Senate's redistricting plan, resulting in a special session to be called for Wednesday, March 14, 2012 for the purposes of redesigning several Senate districts.

Another legal issue will play a role for the future. On March 6, 2012, the Circuit Court of the Second Judicial Circuit issued an order striking down the 2011 law that required employees in the Florida Retirement System to contribute 3% of their salary toward their retirement. The trial court's opinion has been appealed by the State. No changes to benefits or deductions are being made during the appeals process.

There is hope that the Florida economy will begin to rebound and that next year's session will have a more positive impact on Florida's one million state college students.



How to Find the Final Version of a Bill

The simplest way to see the final version of a bill is to go to www.flhouse.gov and click on the top tab "Bills." Senate bills are always even numbers (SB 00) and House bills are always odd numbers (HB 11). Note that you may choose either chamber or choose "both." Enter the bill number and the history of the bill will come up. Go to the section on "Bill Text" and choose the top entry, which is the most recent version of the bill. An enrolled bill is the one being sent to the Governor.

General Appropriations Act (GAA) 2012-13, HB 5001

Statewide Funding

In general, funding for the Florida College System and the Community College Program Fund (CCPF) was slightly increased for 2012-13 from the 2011-12 level. Lottery funding was up significantly from \$130,359,158 to \$180,808,060 for an increase of \$50,448,902 or 39 percent. The Legislature offset this by a fund shift reduction of a like amount from General Revenue.

Operating costs for new facilities was fully funded at \$7.3 million, including \$2.1 million in annualization of appropriations from 2011-12 and \$5.2 million for new facilities opening in 2012-13.

The Legislature again adjusted funding in the Community College Program Fund to reflect a change in Florida Retirement System contributions. An increase of \$7.2 million was provided to fund normal cost increases of the program. The increase was offset by a reduction in funding of \$6.5 million, which reflects the lowered employer's contribution rates which will be charged for members of the CCORP and the Investment programs in 2012-13. Because of the lowered rates, it is expected that these changes should have no net impact on the funds available for operations.

In addition, the Legislature provided approximately \$36.1 million to individual colleges resulting in an overall increase in state funding of \$28.3 million or a net increase of 2.8 percent. The Legislature also authorized local boards to increase tuition by up to 5 percent. With the inclusion of the potential increase in tuition receipts of \$45.5 million, the overall potential increase in funding will amount to 3.8 percent.

The maximum increase in state dollars was 20.9 percent. Twenty-one colleges had a net change of less than 3.2%. Depending on an individual college's funding for retirement adjustments, operating cost for new facilities, legislative initiatives, and tuition the range of increase will be from 1.3 percent to 15 percent.

Funding for the College Center for Library Automation was removed from being part of the CCPF allocation. The \$12.8 million was transferred, reduced by 5%, and appropriated as part of the new Florida Virtual Campus line item. Funding was continued for the 2+2 partnership initiative at the level of \$3 million for distribution to colleges and universities.

Based on recent legislative activity and current enrollment data, state operating funds are set to increase next year by \$69 or 2.6 percent per FTE. If college enrollments are maintained at the current level, state provided operating funds will increase from \$2,692 in 2011-12 to \$2,761 in 2012-13. Over the past five years state operating appropriations for the colleges have declined by \$81.1 million (703 percent), from a high of \$1.11 billion in 2007-08 to \$1.03 billion in 2012-13. On a per FTE basis, state operating funds have declined by \$882 (24.2 percent) since 2007-08. Over the same time period FTE enrollment has grown by 22.3 percent, adding more than 68,000 additional FTE students to the system.

Florida College System 2011-12 and 2012-13 Funding

Issue	Funding 2011-12	Funding 2012-13
Community College Program Fund (CCPF) - Lottery	\$130,359,158	\$180,808,060
Community College Program Fund (CCPF) - GR	\$893,092,474	\$870,982,214
Adults with Disabilities	\$1,030,830	\$876,206
Student Fees	8% increase	5 % increase
Facilities Matching	0	0
Phillip Benjamin Matching	0	0
PECO		
General Revenue	\$1,440,000	\$0
Lottery CO & DS TF	\$18,776,420	\$69,098,805
PECO	<u>\$82,648,517</u>	<u>\$0</u>
Total	Total \$102,864,937	Total \$69,098,805
	After veto: \$18,636,486	
PECO Sum-of-Digits	\$8,088,000	\$5,377,488
First Generation Matching - Lottery	\$1,397,017	\$1,327,166
College Reach Out Program	\$1,000,000	\$1,000,000
Displaced Homemakers	\$1,816,434	\$1,816,434
Public Financial Aid		
Lottery	\$45,100,892	\$45,100,892
Student Loan Operating TF		<u>\$59,602,832</u>
General Revenue (FSAG)	<u>\$55,304,031</u>	Total \$104,703,724
Total	Total \$100,404,923	
Florida Distance Learning Consortium FACTS	\$590,000	2011-12 unspent balance re-appropriated for 2012-13
Florida Virtual Campus (FDLN,FACTS,CCLA,FCLA)	This is the FCS share. SUS share is in the SUS budget.	\$10,963,647
2 + 2 Partnerships, SUS and FCS	\$3,000,000	\$3,000,000

General Appropriations Bill HB 5001 and Edison State College Budget

ISSUE	FY 2011-12 Appropriation	2012-13 Session Conference Report
CCPF-Operating Funds GR	\$21,841,892	\$20,821,986
Lottery	\$3,234,398	\$4,322,457
Total CCPF Appropriations	\$25,076,290	\$25,144,443
		An increase of \$68,153.00 over
Fixed Capital Outlay - Lottery/PECO		
General Renovation	\$636,914 (VETOED)	\$1,102,260
Collier Ren/Rem Bldgs 1, 5, 10	\$956,481 (VETOED)	\$956,481
Lee Ren/Rem (10 buildings total)	\$6,749,585 (VETOED)	\$0.00
Sum-of-the-Digits Allocation (est.)	\$226,891	\$150,570 (ESTIMATED)

Appropriations Proviso, Implementing, and Conforming Bill Issues

The Legislature has three methods to reflect funding decisions made in the General Appropriations Act (GAA) process. "Proviso" is language in the General Appropriations Act attached to a specific appropriation which directs or authorizes how the funds can be expended. An implementing bill is a substantive bill which provides instructions to enact specific provisions for a GAA appropriation or proviso by changing the law (Florida Statutes) temporarily for one year. This is necessary because the courts have ruled the GAA cannot contradict current law; however, there may be a need to temporarily suspend some provision of law. A conforming bill is also a substantive bill which may "travel" with the GAA. It differs from the implementing bill in that it makes permanent changes to Florida Statutes.

In summary, proviso language and implementing bills are law for only one year and then they expire, while a conforming bill makes a permanent change in Florida law. While the Governor may veto the entire appropriations act or exercise his veto by "line item," he does not have "line item" veto in a conforming or implementing bill but must act on the entire bill. Bills which are passed by the Legislature are sent to the Governor. The Governor may sign, veto, or allow a bill to become law without his signature. Because the Legislature has now adjourned the 2012 Session, the Governor has fifteen consecutive days from the date he receives a bill to act on that bill. Leadership of the Legislature staggers sending bills to the Governor in order to provide time to fully review the content/impact of bills.

Following are the appropriations and Florida College System related bills passed this session:

- HB 5001, General Appropriations Act
- HB 5003, Appropriations Implementing Bill
- HB 5201, Higher Education Conforming Bill

Another term that is heard or read as the Session draws to a close is "Conference Report." When the Senate and House of Representatives pass different versions of a bill and they are not able to agree upon common content through the amendatory process, each house appoints members ("conferees") to a conference committee on the bills. The committee members negotiate the differences between the bills and present a mutually agreed upon version to both houses. This product is called a "Conference Report" which may only be accepted or rejected, but not amended, by each house. Although the General Appropriations Act and its related bills are commonly conferenced, there has been a growing tendency for other important bills to also be conferenced. This year, in addition to the GAA and Implementing Bills, there were 35 conference report bills.

Tuition and Fees Contained in HB 5001, the General Appropriations Bill

Florida College System (FCS) Tuition

- Proviso following Specific Appropriation 108, General Appropriations Act:

Beginning with the Fall 2012 semester, tuition and fee rates are established for the 2012-2013 fiscal year as follows:

- For advanced and professional, postsecondary vocational, college preparatory, and educator preparation institute programs, standard tuition for residents and nonresidents shall be \$71.98 per credit hour for residents. For nonresidents, the out-of-state fee shall be \$215.94 per credit hour in addition to the standard tuition of \$71.98 per credit hour.
- For baccalaureate degree programs, the standard tuition shall be \$91.79 per credit hour for students who are residents.
- For programs leading to a career certificate or an applied technology diploma, the standard tuition shall be \$2.33 per contact hour for residents and nonresidents and the out-of-state fee shall be \$6.99 per contact hour, in addition to the standard tuition.

Adult Education – Tuition

- Proviso following Specific Appropriation 108, General Appropriations Act:

For adult general education programs, block tuition will be assessed in the amount of \$45 per half year or \$30 per term for residents. For non-residents, the out-of-state fee shall be \$135 per half year or \$90 per term, in addition to the standard tuition. This reflects a continuation of the 2011-12 fees.

Conforming Bills

Conforming bills usually appear late in Session, often in conjunction with the adoption of a chamber's appropriations bill. Such bills are necessary to "conform" certain provisions of the law to the directions contained in the General Appropriations Act (GAA) about how appropriated funds are to be expended. A conforming bill makes permanent changes to Florida law, while an Implementing bill makes changes in law only for the life of the GAA: one year.

In previous Legislative Sessions conforming bills adhered to long standing practice requiring that the bill specifically address items connected to the GAA. Over the past several years it has become common practice to insert substantive bill language into the conforming bill that has a tangential connection to the GAA. This practice has the effect of changing law without the change language being vetted in the legislative committee process.

In addition, the number of conforming bill has grown from 3 to 5 bills in a session to a record number of 44 bills in the 2011 session, and 35 bills in the 2012 session; 17 of these had no companion bill.

HB 5201, Higher Education Conforming Bill for the 2012 Legislative Session

Auditor General Reporting Requirements Relating to Florida College System and State University System Institutions

- HB 5201 Higher Education Conforming, Section 1, adding paragraph (j) to subsection (7) of section 11.45, Florida Statutes:

Requires the Auditor General to notify the Legislative Auditing Committee if a college or university fails to take full corrective action in response to an audit recommendation that was included in the two previous financial or operational audit reports on the institution. Authorizes the Joint Legislative Auditing Committee to request the institution to provide a written explanation of why full corrective action has not been taken on the recommendation and, if the response is deemed insufficient, to require the chair of the governing body of the institution, or the chair's designee, to appear before the Committee.

If the Committee determines there is no justifiable reason why the institution has failed to take full corrective action on the recommendation, the Committee may direct the Department of Financial Services to withhold funds until the institution complies with the recommendation.

Restrictions on Severance Pay Provisions of Employee Contracts

- HB 5201 Higher Education Conforming, Section 4, amending subsection (47) of section 1001.64, Florida Statutes, and adding subsection (48) to that section:

Requires severance pay provisions included in employee contracts at public universities and public colleges to conform with s. 215.425, Florida Statutes, which limits such pay to 20 weeks of compensation. Provides further that severance pay may not be provided when the employee is fired for misconduct.

Purchasing Consortia

- New language in subsection (48) requires each board of trustees to use purchasing agreements, state contracts, or to enter into consortia and cooperative agreements to maximize purchasing power for goods and services. The goal is to achieve a 5-percent savings on existing contracts through the use of new cooperative arrangements or new consortium contracts.

Creation of the Florida Virtual Campus

- HB 5201 Higher Education Conforming, Section 14, creating s. 1006.73, Florida Statutes:

The Florida Virtual Campus is established which consolidates the Florida Distance Learning Consortium, FACTS.org, the Florida Center for Library Automation (FCLA), and the College Center for Library Automation (CCLA). Funding for the Florida Virtual Campus is evenly split between the Florida College System and the State University System. As part of the reorganization, FACTS.org is no longer required to provide career planning tools for the k-12 students.

Primary responsibilities of the Florida Virtual Campus are to provide access to online student services and library support services, serve as a statewide resource and clearinghouse for postsecondary education distance learning courses and degree programs, and increase student access and completion of degrees. Joint oversight for the Florida Virtual Campus is assigned to Florida College System and State University System Chancellors who shall establish the governing and reporting structure, staffing, and operating budget for the Virtual Campus.

Sections 2, 7, 8, 9, 13, 14, 15, 16, 17, 18, 21, and 22 of HB 5201, the Higher Education Conforming Bill also make changes relating to the creation of the Florida Virtual Campus and the de-authorization of the current entities of the Florida Distance Learning Catalog, Florida Distance

Learning Consortium, FACTS.org, the Florida Center for Library Automation (FCLA), and the College Center for Library Automation (CCLA).

Florida College System Baccalaureate Degree Approval Process

- HB 5201 Higher Education Conforming, Section 19, deletes current subsection (6) and renumbers current subsection (7) as subsection (6) of section 1007.33, Florida Statutes:

Removes current language authorizing a college to apply for an exemption from State Board of Education approval of new baccalaureate degree programs. Requests for approval of future baccalaureate degree programs must be made to, and approved by, the State Board of Education, which is the current practice.

Increase in the Student Fee for Capital Improvements (CIF)

- HB 5201 Higher Education Conforming, Section 21, amending section 1009.23, Florida Statutes, to:

Allows a local board of trustees to increase the charge for the Capital Improvement Fee over time from up to 10-percent of tuition to as maximum of 20-percent of tuition per credit hour for resident students. The maximum increase in any given year remains limited to \$2 per credit hour over the prior year.

Fee Exemption for Workforce Education Program Students

- HB 5201 Higher Education Conforming, Section 23, amending subsection (1) of section 1009.25, Florida Statutes:

Amends language to specify that exemptions from tuition and fees, including lab fees at a school district, Florida College System college, or state university apply to students in workforce education programs and not postsecondary career programs.

Excess Hour Surcharge

- HB 5201 Higher Education Conforming, Section 24, amending sections (2) and (7) of section 1009.286, Florida Statutes:

For First Time In College (FTIC) students who enroll in the State University System in 2012-13, and who maintain continuous enrollment, a 100% tuition surcharge is established for hours over 110% of the required number to receive specific baccalaureate degrees. Currently enrolled students who maintain continuous enrollment continue to be grandfathered under the provisions regarding excess credit hours at the time the student was an FTIC.

NOTE: Does not expand the excess hour surcharge to include students attending Florida College System institutions.

Review of Significant Findings in an Audit at a Public Meeting of a Board of Trustees

- HB 5201 Higher Education Conforming, Section 35, amending section (2) and of section 1010.30, Florida Statutes:

Provides that if a Florida College System institution has a significant finding in an audit, the board of trustees shall conduct an audit overview during a public meeting.

Contract Language for Administrative and Instructional Staff

- HB 5201 Higher Education Conforming, Section 37, amending section 1012.83, Florida Statutes, to:

Requires that each contract or employment agreement, or renewal or renegotiation of an existing contract or employment agreement which contains a severance pay provision must include the following provisions in the contract:

- A requirement that severance pay provided may not exceed an amount greater than 20 weeks of compensation.
- A prohibition of provision of severance pay when the officer, agent, employee, or contractor has been fired for misconduct, as defined in s.443.036(29), by the unit of government.

Restrictions on the Remuneration of Florida College System Presidents and Administrative Employees

- HB 5201 Higher Education Conforming, Sections 38, and 39

Continues for fiscal year 2012-13, the current restrictions against using state appropriated funds in excess of \$200,000 to pay the salary of presidents or administrative employees.

Proposed Committee Bill, (PCB)

A Proposed Committee Bill (PCB) is a bill that is written by a substantive committee as a result of an interim committee project or at the request of a member serving on the committee. In past sessions a PCB would be published early in the session, then discussed and voted on in the committee of origin, given a bill number and referred to committees of jurisdiction for discussion and debate. The bill rose or fell on its merits as determined by the committee process. It was understood that PCB's had leadership and or committee chairman backing and would be difficult to amend. Never the less, the process provided the public and interested parties the opportunity for input prior to final legislative action and, hopefully, resulting in better legislation.

This year, PCBs affecting postsecondary education were introduced later than usual in the session. One 30-plus page bill, with significant Higher Education policy changes, was released on day 49 of the 60 day session, and was scheduled on the agenda of its only committee of reference three days later on day 52. If this practice continues and grows, as has been the experience with the conforming bill process, the ability to affect system changing legislation may be severely impacted.

BILLS THAT PASSED

Note: The first bill number shown is the bill that passed. The number and bill sponsor in the parentheses was the companion bill.

Postsecondary Education: HB 7135 by the House Education Committee and Proctor (CS/CS/SB 1366 by Gaetz and the Budget Subcommittee on Higher Education Appropriations and Lynn)

Many sections of statute are created and amended as follows:

- **FCS Planning and Performance**
 - Directs the State Board of Education (SBE) to clarify the mission statements of each FCS institution and its role within the system as a whole, including

- the role of each institution in baccalaureate degree production and establish criteria for baccalaureate degrees service delivery areas.
 - performance metrics and a plan that specifies goals and objectives for each FCS institution.
- **FCS Baccalaureate Degrees**
 - Amends the language related to FCS institution notice of intent to propose a baccalaureate degree program to
 - include independently-determined workforce demand and unmet need data
 - repeal the unused provision allowing FCS institutions to bypass SBE approval for additional baccalaureate degrees
 - require evidence that there have been discussions with SUS and other regionally accredited providers in the service area.
 - Requires each FCS institution offering baccalaureate degree programs to annually report its status using specific performance and compliance indicators.
 - Authorizes the SBE to require modification or termination of baccalaureate programs offered by FCS institutions.
- **STEM Plan**
 - Requires the SBE, in consultation with the BOG and the Department of Economic Opportunity (DEO) to adopt a unified state plan for Science, Technology, Engineering, and Mathematics (STEM).
- **FCS issues**
 - Allows the SBE to ask FCS District Boards of Trustees to evaluate the performance of presidents based on system, as well as institutional, goals.
 - Authorizes the Commissioner or his/her designee to conduct a review or investigation at any College if such College takes actions inconsistent with sound financial, management or academic practice.
- **AA student advising**
 - Requires the Articulation Coordinating Council (ACC) to have each FCS student identify a desired baccalaureate degree, by institution of interest, by time the student earns 30 credits. The FCS institution must then notify the student of degree program prerequisites.
- **General Education**
 - Revises general education and foreign language requirements beginning with students initially entering a FCS institution in 2014-15
 - Reduces the requirement from 36 semester credit hours to 30 semester credit hours for an associate or baccalaureate degree.
 - Requires the SBE and the BOG to jointly convene faculty committees to identify statewide general education core course options. General education core course options must consist of a maximum of five courses within each of the subject areas of communication, mathematics, social sciences, humanities, and natural sciences.
 - Requires competency in a foreign language, pursuant to s. 1007.262, F.S., to obtain an Associate in Arts degree.
- **Student information on careers**
 - Requires the DEO to annually, beginning December 31, 2013, prepare an economic security report of employment and earning outcomes for degrees or certificates earned at a public

postsecondary educational institution. Report must be provided to public high school and postsecondary students.

Personnel Records, SB 878 by Benacquisto (CS/HB 1465 by Caldwell)

- Amends provisions of law relating to limited access personnel records of Florida College System employees, ostensibly to conform with Regulations and law relating to SUS employees. Specifies what records are considered limited access and opens non-academic evaluations to public inspection

- Provides that such limited access records include only:
 - Records containing information reflecting academic evaluations of employee performance; however, the employee and officials of the institution responsible for supervision of the employee shall have access to such records.
 - Records maintained for the purposes of any investigation of employee misconduct, including, but not limited to, a complaint against an employee and all information obtained pursuant to the investigation of such complaint; however, these records become public after the investigation ceases to be active or when the institution provides written notice to the employee who is the subject of the complaint that the institution has either:
 1. Concluded the investigation with a finding not to proceed with disciplinary action;
 2. Concluded the investigation with a finding to proceed with disciplinary action; or
 3. Issued a letter of discipline.
 - Records maintained for the purposes of any disciplinary proceeding brought against an employee; however, these records shall be open to inspection by the employee and shall become public after a final decision is made in the proceeding.
 - Records maintained for the purposes of any grievance proceeding brought by an employee for enforcement of a collective bargaining agreement or contract; however, these records shall be open to inspection by the employee and by officials of the institution conducting the grievance proceeding and shall become public after a final decision is made in the proceeding.

Protection of Vulnerable Persons, CS/CS/CS/HB 1355 by Dorworth (CS/CS/SB 1816 by Benacquisto)

- Currently child abuse and sexual abuse laws require all adults to report child abuse to the Florida Child Abuse Hotline when a caregiver (definition only includes parent, legal custodian, adult household member, etc.) commits abuse. The bill amends child abuse reporting laws by providing that all adults must report child abuse committed by any person, not just caregivers.
- Establishes a \$1 million fine (for each violation) for any Florida College System institution, state university, or nonpublic college, university, or school, whose administrators knowingly and willfully, upon receiving information from faculty, staff, or other institution employees, fail to report known or suspected child abuse, abandonment, or neglect committed on the property of the institution, or during an event or function sponsored by the institution, or who knowingly and willfully prevent another person from doing so; or whose law enforcement agency fails to report known or suspected child abuse, abandonment, or neglect committed on the property of the institution, or during an event or function sponsored by the institution.