

**Constitution Revision Commission  
Education Committee  
Proposal Analysis**

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

Proposal #: 44

Relating to: Education, State University System

Introducer(s): Commissioner Washington

Article/Section affected: Article IX, section 7

Date: February 25, 2018

	REFERENCE	ACTION
1.	<u>ED</u>	<u>Fav/CS</u>
2.	<u>ED</u>	<u>Post meeting</u>

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**I. SUMMARY:**

The proposal amends Article IX, section 7 of the Florida Constitution to add a new subsection requiring any change in fees for a state university to be approved by an affirmative vote of at least nine members of the university board of trustees and an affirmative vote of at least twelve members of the Board of Governors before the change could become effective.

**II. SUBSTANTIVE ANALYSIS:**

**A. PRESENT SITUATION:**

**Tuition setting authority**

The 2010 State University System Governance Agreement<sup>1</sup> established a collaborative model of governance for the state university system between the Board of Governors and the Legislature. The agreement required that the responsibilities of each body, including tuition setting authority, be established in law<sup>2</sup> and responsibility for the State University System under section 7, Art. IX of the State Constitution.

The legislature has exclusive authority to establish undergraduate tuition for state universities. Effective July 1, 2014, the resident undergraduate tuition for lower-level and upper-level coursework was set at \$105.07 per credit hour<sup>3</sup>. There are also certain fees, including the Capital

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<sup>1</sup> s. 1001.7065, Florida Statutes

<sup>2</sup> s. 1001.705, Florida Statutes

<sup>3</sup> s. 1009.24(4)(a), Florida Statutes

Improvement Trust Fund fee<sup>4</sup> established in law, but subject to modification upon approval by the university Board of Trustees and Board of Governors.

### **State University System Fees**

The Board of Governors, as the body authorized to “operate, regulate, control, and be fully responsible for the management of the whole university system”<sup>5</sup> has been legislatively delegated authority to establish tuition for graduate and professional programs and out of state fees for all programs.<sup>6</sup> There are also a number of fees that, upon approval by the university Board of Trustees, are brought before the BOG for consideration and approval, including Flexible tuition policies.<sup>7</sup> These policies may include undergraduate or graduate block tuition, block tuition differential, or market tuition rates for graduate-level online courses or graduate-level courses offered through a university’s continuing education program. However, such policies must align with the requesting university’s mission and cannot increase the state’s fiscal liability or obligations including, but not limited to, programs authorized under sections 1009.53-1009.538, F.S., (Bright Futures Scholarships) and sections 1009.97-1009.984, F.S., (Florida Prepaid programs). Upon a majority favorable vote by the seventeen-member Board of Governors, the university is then authorized to impose the fee.

The University Board of Trustees have been delegated authority to establish or increase a number of fees, subject to law, including:

- Activity and service<sup>8</sup> and health
- Financial aid<sup>9</sup>
- Technology<sup>10</sup>
- Capital Improvement Trust Fund<sup>11</sup>
- Tuition Differential<sup>12</sup>
- Distance Learning Course<sup>13</sup>
- Fees for applications, orientation, ID cards, transcripts, equipment, traffic violations, transient students, childcare services, etc.<sup>14</sup>

Universities are prohibited from charging any fee that is not specifically authorized.<sup>15</sup> Florida statute outlines the process that a university BOT must follow to publicly notice and notify all enrolled students of any proposal to increase tuition or fees, which includes providing students with the rationale for the proposed increase and how the funds resulting from the increase will be

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<sup>4</sup> Section 1009.24(8)(a), FS

<sup>5</sup> Section 7, Article VI. Florida Constitution

<sup>6</sup> Section 1009.24(4)(b), FS

<sup>7</sup> Section 1009.24(4)(c), FS

<sup>8</sup> Section 1009.24(4)(d), FS and Section 1009.24(10)(a), FS

<sup>9</sup> Section 1009.24(7), FS

<sup>10</sup> Section 1009.24(13), FS

<sup>11</sup> Section 1009.24(8), FS

<sup>12</sup> Section 1009.24(5), FS and Section 1009.24(16), FS

<sup>13</sup> Section 1009.24(17), FS

<sup>14</sup> Section 1009.24(14), FS

<sup>15</sup> Section 1009.24(18), FS

used.<sup>16</sup> Currently, the fee would be imposed subsequent to the favorable vote of a majority of the thirteen member board. Fees that are subject to BOG approval would be required to receive a majority favorable vote by the BOG as well.

Each year, the BOG is required to submit to the legislature a report summarizing the fee proposals received by the board during the preceding year and the actions taken by the board in response to such proposals.<sup>17</sup> In 2011, eight proposals were submitted to the BOG for new fees and three were approved with the remainder withdrawn from the universities.<sup>18</sup> In 2012, six proposals for new fees were submitted to the BOG and two new fees were approved and the other new fee proposals withdrawn by their respective university.<sup>19</sup> For the most recent report from 2013, two new fees were proposed but neither were approved by the BOG.<sup>20</sup> Current fees for each university is published on the BOG website.<sup>21</sup>

## **B. EFFECT OF PROPOSED CHANGES:**

The proposal codifies that tuition is established exclusively by law. Tuition raises from the legislature must be approved by two-thirds of each house of the legislature and presented to the Governor for approval. Any tuition increase in legislation must be contained in a separate bill that has no other subjects.

The proposal also requires a favorable vote of 9 of the 13 members of a BOT to propose a new fee or fee increase. The fee is also subject to BOG approval, and 12 of the 17 BOG members would have to approve the fee increase in order for it to be imposed.

## **C. FISCAL IMPACT:**

Indeterminate.

## **III. Additional Information:**

### **A. Statement of Changes:**

(Summarizing differences between the current version and the prior version of the proposal.)

### **Education on January 26, 2018**

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<sup>16</sup> Section 1009.24(20), FS

<sup>17</sup> Section 1009.24(15)(f), FS

<sup>18</sup> State University System of Florida, 2011 New Fee Report

<sup>19</sup> State University System of Florida, New Fees Authorized by the Florida Board of Governors for Fall 2012

<sup>20</sup> State University System of Florida, New Fees Authorized by the Florida Board of Governors for Fall 2013

<sup>21</sup> [http://www.flbog.edu/board/office/budget/\\_doc/tuition/2017-18-SUS-Tuition-and-Fee-for-New-Students-at-Main-Campus-by-level.pdf](http://www.flbog.edu/board/office/budget/_doc/tuition/2017-18-SUS-Tuition-and-Fee-for-New-Students-at-Main-Campus-by-level.pdf)

The amended proposal clarifies that the tuition rates for the State University System shall be established exclusively by law. It specifies that an increase in tuition must be approved by two-thirds of the membership of each house of the legislature and approved by the Governor. Any increase must be contained in a separate bill that has no other subjects.

The amendment maintains that any fee increase or change must be approved by nine affirmative votes of the BOT of the university and at least twelve affirmative votes of the BOG.

**B. Amendments:**

Education approved amendment barcode 733666 on January 26, 2018.

**C. Technical Deficiencies:**

None.

**D. Related Issues:**

None.