

# CHAPTER 98-99

## Senate Bill No. 564

An act relating to higher education; amending s. 240.299, F.S.; providing reporting requirements for university direct-support organizations; amending s. 240.311, F.S., relating to rules of the State Board of Community Colleges; requiring a community college district board of trustees to annually evaluate the college president; amending s. 240.324, F.S.; providing an additional requirement for the accountability plan for community colleges; amending ss. 240.331, 240.3315, F.S.; prescribing membership of boards of directors and executive committees of community college direct-support organizations and statewide community college direct-support organizations; restricting activities of such direct-support organizations; providing reporting requirements for such organizations; amending s. 240.3335, F.S.; removing the authority of a board of directors of a center of technology innovation to acquire, lease, or sublease property; amending s. 240.363, F.S.; providing that a community college is not responsible for the acts, debts, liabilities, or obligations of a direct-support organization; providing an appropriation; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Subsection (6) is added to section 240.299, Florida Statutes, to read:

240.299 Direct-support organizations; use of property; board of directors; audit; facilities.—

(6) ANNUAL BUDGETS AND REPORTS.—Each direct-support organization shall submit to the university president and the Board of Regents its federal Internal Revenue Service Application for Recognition of Exemption form (Form 1023) and its federal Internal Revenue Service Return of Organization Exempt from Income Tax form (Form 990).

Section 2. Paragraph (f) of subsection (3) of section 240.311, Florida Statutes, is amended to read:

240.311 State Board of Community Colleges; powers and duties.—

(3) The State Board of Community Colleges shall:

(f) Specify, by rule, procedures to be used by the boards of trustees in the annual ~~periodic~~ evaluations of presidents and formally review the evaluations of presidents by the boards of trustees.

Section 3. Present paragraph (g) of subsection (1) of section 240.324, Florida Statutes, is redesignated as paragraph (h) and a new paragraph (g) is added to that subsection, to read:

240.324 Community college accountability process.—

(1) It is the intent of the Legislature that a management and accountability process be implemented which provides for the systematic, ongoing improvement and assessment of the improvement of the quality and efficiency of the State Community College System. Accordingly, the State Board of Community Colleges and the community college boards of trustees shall develop and implement a plan to improve and evaluate the instructional and administrative efficiency and effectiveness of the State Community College System. This plan must address the following issues:

(g) Institutional assessment efforts related to the requirements of s. III in the Criteria for Accreditation of the Commission on Colleges of the Southern Association of Colleges and Schools.

Section 4. Section 240.331, Florida Statutes, is amended to read:

240.331 Community college direct-support organizations.—

(1) DEFINITIONS.—For the purposes of this section:

(a) “Community college direct-support organization” means an organization that which is:

1. A Florida corporation not for profit, incorporated under the provisions of chapter 617 and approved by the Department of State.

2. Organized and operated exclusively to receive, hold, invest, and administer property and to make expenditures to, or for the benefit of, a community college in this state. ~~The direct-support organization may, at the request of the district board of trustees, provide residency opportunities on or near the college campus for students. Community College Program Fund and Public Education Capital Outlay funds may not be used to construct, maintain, or operate such facilities.~~

3. An organization that which the board of trustees, after review, has certified to be operating in a manner consistent with the goals of the community college and in the best interest of the state. Any organization that which is denied certification by the board of trustees may ~~shall~~ not use the name of the community college that which it serves.

(b) “Personal services” includes full-time or part-time personnel as well as payroll processing.

(2) BOARD OF DIRECTORS.—The chairperson of the board of trustees shall appoint a representative to the board of directors and the executive committee of each direct-support organization established under this section, including those established before July 1, 1998. The president of the community college for which the direct-support organization is established, or the president’s designee, shall also serve on the board of directors and the executive committee of the direct-support organization, including any direct-support organization established before July 1, 1998.

## (3)(2) USE OF PROPERTY.—

(a) The board of trustees is authorized to permit the use of property, facilities, and personal services at any state community college by any community college direct-support organization, subject to the provisions of this section.

(b) The board of trustees is authorized to prescribe by rule any condition with which a community college direct-support organization must comply in order to use property, facilities, or personal services at any state community college.

(c) The board of trustees ~~may shall~~ not permit the use of property, facilities, or personal services at any state community college by any community college direct-support organization ~~that which~~ does not provide equal employment opportunities to all persons regardless of race, color, national origin, sex, age, or religion.

## (4) ACTIVITIES; RESTRICTIONS.—

(a) A direct-support organization may, at the request of the district board of trustees, provide residency opportunities on or near campus for students.

(b) A direct-support organization that constructs facilities for use by a community college or its students must comply with all requirements of this chapter relating to the construction of facilities by a community college, including requirements for competitive bidding.

(c) Any transaction or agreement between one direct-support organization and another direct-support organization or between a direct-support organization and a center of technology innovation designated under s. 240.3335 must be approved by the district board of trustees.

(5) ANNUAL BUDGETS AND REPORTS.—Each direct-support organization shall submit to the board of trustees its federal Internal Revenue Service Application for Recognition of Exemption form (Form 1023) and its federal Internal Revenue Service Return of Organization Exempt From Income Tax form (Form 990).

~~(6)(3) ANNUAL AUDIT.—Each direct-support organization shall make provisions for an annual postaudit of its financial accounts to be conducted by an independent certified public accountant in accordance with rules to be promulgated by the district board of trustees. The annual audit report must shall be submitted to the Auditor General, the State Board of Community Colleges, and the board of trustees for review. The board of trustees and the Auditor General ~~may shall have the authority to~~ require and receive from the organization or from its independent auditor any detail or supplemental data relative to the operation of the organization. The identity of donors who desire to remain anonymous shall be protected, and that anonymity shall be maintained in the auditor's report. All records of the organization, other than the auditor's report, any information necessary for the auditor's report, any information related to the expenditure of funds, and any supplemental data requested by the board of trustees and the Auditor General, shall be confidential and exempt from the provisions of s. 119.07(1).~~

Section 5. Section 240.3315, Florida Statutes, is amended to read:

240.3315 Statewide community college direct-support organizations.—

(1) DEFINITIONS.—For the purposes of this section:

(a) “Statewide community college direct-support organization” means an organization that which is:

1. A Florida corporation not for profit, incorporated under the provisions of chapter 617 and approved by the Department of State.

2. Organized and operated exclusively to receive, hold, invest, and administer property and to make expenditures to, or for the benefit of, the Community College System in this state.

3. An organization that which the State Board of Community Colleges, after review, has certified to be operating in a manner consistent with the goals of the Community College System and in the best interest of the state. Any organization that which is denied certification by the State Board of Community Colleges may shall not use the name of any community college.

(b) “Personal services” includes full-time or part-time personnel as well as payroll processing.

(2) BOARD OF DIRECTORS.—The chairperson of the State Board of Community Colleges may appoint a representative to the board of directors and the executive committee of any statewide, direct-support organization established under this section or s. 240.331. The chairperson of the State Board of Community Colleges, or the chairperson's designee, shall also serve on the board of directors and the executive committee of any direct-support organization established to benefit the State Community College System.

(3)(2) USE OF PROPERTY.—

(a) The State Board of Community Colleges may is authorized to permit the use of property, facilities, and personal services of the Division of Community Colleges by any statewide community college direct-support organization, subject to the provisions of this section.

(b) The State Board of Community Colleges may is authorized to prescribe by rule any condition with which a statewide community college direct-support organization must comply in order to use property, facilities, or personal services of the Division of Community Colleges.

(c) The State Board of Community Colleges may shall not permit the use of property, facilities, or personal services of the Division of Community Colleges by any statewide community college direct-support organization that which does not provide equal employment opportunities to all persons regardless of race, color, national origin, sex, age, or religion.

(4) RESTRICTIONS.—

(a) A statewide, direct-support organization may not use public funds to acquire, construct, maintain, or operate any facilities.

(b) Any transaction or agreement between a statewide, direct-support organization and any other direct-support organization or between a statewide, direct-support organization and a center of technology innovation designated under s. 240.3335 must be approved by the State Board of Community Colleges.

(5) ANNUAL BUDGETS AND REPORTS.—Each direct-support organization shall submit to the State Board of Community Colleges its federal Internal Revenue Service Application for Recognition of Exemption form (Form 1023) and its federal Internal Revenue Service Return of Organization Exempt From Income Tax form (Form 990).

(6)(3) ANNUAL AUDIT.—A statewide community college direct-support organization shall make provisions for an annual postaudit of its financial accounts to be conducted by an independent certified public accountant in accordance with rules to be adopted by the State Board of Community Colleges. The annual audit report shall be submitted to the Auditor General and the State Board of Community Colleges for review. The State Board of Community Colleges and the Auditor General shall have the authority to require and receive from the organization or from its independent auditor any detail or supplemental data relative to the operation of the organization. The identity of a donor or prospective donor who desires to remain anonymous and all information identifying such donor or prospective donor are confidential and exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I of the State Constitution. Such anonymity shall be maintained in the auditor's report.

Section 6. Subsection (7) of section 240.3335, Florida Statutes, is amended to read:

240.3335 Centers of technology innovation.—

(7) Each center shall have a board of directors with at least five members who shall be appointed by the district board of trustees. The board of directors is shall be responsible for overseeing the operation of the center, approval of the annual budget, and setting policy to guide the director in the operation of the center. The board of directors shall have the authority to acquire, lease, and sublease property subject to the provisions of general law. The board of directors shall consist of at least the following:

- (a) The director of the center.
- (b) The vice president of academic affairs, or the equivalent, of the community college.
- (c) The vice president of business affairs, or the equivalent, of the community college.
- (d) Two members designated by the president of the community college.

Section 7. Section 240.363, Florida Statutes, is amended to read:

240.363 Financial accounting and expenditures.—All funds accruing to the benefit of a community college must shall be received, accounted for, and

expended in accordance with rules of the State Board of Community Colleges. A direct-support organization shall have sole responsibility for the acts, debts, liabilities, and obligations of the organization. A community college shall have no responsibility for such acts, debts, liabilities, or obligations incurred or assumed by a direct-support organization solely by reason of certification. ~~except that~~ Each community college board of trustees may adopt policies that provide procedures for transferring ~~private contributions to the community college~~ to the direct-support organization of that the community college for administration by such organization contributions made to the community college.

Section 8. There is hereby appropriated from the General Revenue Fund the sum of \$1 million as a grant and aid to Brevard Community College for fiscal year 1998-1999 to support the acquisition of a black beam interferometer for the Open Access Clean Room on the Palm Bay Campus.

Section 9. This act shall take effect July 1, 1998.

Became a law without the Governor's approval May 22, 1998.

Filed in Office Secretary of State May 21, 1998.