

June 22, 2005

Ms. Glenda E. Hood
Secretary of State
Florida Department of State
R. A. Gray Building
500 South Bronough Street
Tallahassee, Florida 32399

Dear Secretary Hood:

I hereby transmit to you, with my signature, House Bill 1001, enacted during the 107th Session of the Legislature of Florida, since statehood in 1845, during the Regular Session of 2005, and entitled:

An act relating to postsecondary education . . .

The bill details the duties of the Board of Governors and the Legislature, as set forth generally in the State Constitution, with respect to governance of the State University System. In addition, the bill specifies the particular responsibilities associated with those constitutional duties and establishes additional requirements for citizen members of the Board of Governors and university boards of trustees.

Since Florida voters created the Board of Governors in 2002, there have been many questions about how the Legislature and the Board should interact with regard to university governance. I would like to commend the Legislature for considering these difficult questions and for taking a significant step toward resolving many of the issues. I applaud their efforts to provide stability and clarity to the governance of our state universities. In particular, I would like to recognize the leadership of Representative Dudley Goodlette, who worked tirelessly to craft and promote this legislation. House Bill 1001 provides an important first step toward delineating the division of responsibilities between the Legislature and the Board of Governors.

Both the Legislature and the Board of Governors are constitutional bodies, and the Constitution is not entirely clear to what extent each entity has authority over the State University System. Because of the complex nature of these issues, the Executive Office of the Governor retained Arthur J. England, Jr., former Chief Justice of the Florida Supreme Court, to review the division of constitutional responsibilities between the Legislature and the Board of Governors as detailed in this bill. I concur with Justice England's assessment that this bill reflects "a thoughtful and good faith effort to reconcile the constitutional duties of the Legislature and the Board of Governors."

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Justice England determined that the State Constitution assigns many responsibilities specifically to either the Legislature or the Board of Governors. However, there are other responsibilities that are not assigned exclusively to either body, but must be shared in whole or in part by the Legislature and the Board. He commented that "neither body can be said to hold exclusive authority over the university segment of higher education, and neither body can effectively perform its responsibilities without the cooperation of the other."

While this bill begins the process of establishing a clear delineation of responsibilities between the Legislature and the Board, it is my hope that the Legislature will revisit certain issues and reconsider their implications -- in particular, the Board of Governors' role in formulating each university's tuition and fee policy.

With respect to the provisions in the bill which prohibit citizen members of the Board of Governors or the university boards of trustees from lobbying the Legislature for compensation, the legal analyses by the Executive Office of the Governor and the Legislature concur that these provisions do not apply to current board members, only to future appointees.

For this reason, and the reasons set forth herein, I hereby sign into law House Bill 1001.

Sincerely,

Jeb Bush