

Board of Regents, budget request and fee increase

Number: INFORMAL

Date: September 22, 1999

The Honorable Bob Casey
Representative, District 22
Suite L
4401 Northwest 25 Place
Gainesville, Florida 32606-6569

Dear Representative Casey:

Thank you for considering this office as a source of assistance regarding the interpretation of section 240.209(3)(e)1., Florida Statutes. Attorney General Butterworth has asked me to respond to your letter.

Section 240.209(3)(e)1., Florida Statutes, provides in pertinent part:

"By no later than December 1 of each year, the board shall raise the systemwide standard for resident undergraduate matriculation and financial aid fees for the subsequent fall term, up to but no more than 25 percent of the prior year's cost of undergraduate programs. . . . However, in the absence of legislative action to the contrary in an appropriations act, the board may not approve annual fee increases for resident students in excess of 10 percent. . . ."

This office has been advised by the General Counsel for the Board of Regents that the Board of Regents has interpreted the language of the above statute as requiring the board to recommend an increase in its budget request which would raise tuition up to but no more than twenty-five percent of the cost of the prior year's undergraduate programs. The board, however, would be precluded from approving a fee increase for resident students in excess of ten percent unless the Legislature approved such an increase in the appropriations act.

The above practice is, according to the board's General Counsel, consistent with the board's interpretation of the statute over the past several years. An administrative construction of a statute by the agency or body charged with its administration is entitled to great weight and will not be overturned unless clearly erroneous.[1] The Legislature, however, may wish to clarify its intent regarding the implementation of section 240.209(3)(e)1., Florida Statutes. I am enclosing a copy of the General Counsel's letter for your consideration.[2]

I trust that the above informal comments may be of assistance.

Sincerely,

Joslyn Wilson
Assistant Attorney General

JW/tgk

Enclosure

[1] See, e.g., *Fort Pierce Utilities Authority v. Florida Public Service Commission*, 388 So. 2d 1031, 1035 (Fla. 1980); *Metropolitan Dade County v. State Department of Environmental Protection*, 714 So. 2d 512 (Fla. 3d DCA 1998).

[2] See Letter from Gregg A. Gleason, General Counsel, Board of Regents, to Joslyn Wilson, Assistant Attorney General, dated August 18, 1999.