



2019 – 2020
STUDENT GOVERNMENT ASSOCIATION
STUDENT GOVERNMENT COUNCIL - MMC
MAJORITY DECISION OF THE SUPREME COURT
REPEAL OF SB3603

NOTICE: The following document represents the majority opinion of the Supreme Court of the Student Government Association of Florida International University's Modesto A. Maidique Campus and constitutes a binding decision on all parties concerned within this decision.
STUDENT SUPREME COURT OF FLORIDA INTERNATIONAL UNIVERSITY – MMC

FILED REVIEW – S.C.001 (Fall 2019)
Decided 2 October, 2019
Majority Decision issued 2 October, 2019

Unanimous Decision Reached.

Chief Justice DE LA OSA, N. delivers the decision of the Court, in which Associate Justice ROSARIO, M. M., PEREZ, J., and RODRIGUEZ, K. join.

JURISDICTION:

1. Constitution Article V Judicial Branch Section 4 (A)(2)(6) and Section 5 (A)(3).

FACTS:

1. This repeal is in reference to SB3603—A BILL TO INCORPORATE SGC-MMC CONTINGENCY FUND REGULATIONS, which was passed on Monday, September 30th, 2019 by Graduate Senator / Pro Tempore Angel B Algarin and sponsored by CJ Kelly, At-Large Senator, as well as Rose Ingraham, At-Large Senator.
2. The bill sought to amend MMC Statutes, Article VII, adding a Section 7.02.

3. The existing language on contingency spending is as follows: University Wide Statutes, Section 3.06, (ii) (4) “Each SGC’s Senate Finance Committee must adhere to the following stipulations when appropriating funds: (4) Appropriations or transfers of any contingency shall be approved by the SGA President and the Comptroller, as well as the Vice President of Student Affairs or his/her designee.”
4. Passage of this bill creates a conflict with the University Wide Statutes in which this Supreme Court has decided to repeal SB3603 in order to prevent inconsistencies with University Wide Statutes.

ISSUES:

Part One: Verbatim Bill Language:

“ Section I: Policy

The proposal outlined in this Council Bill are in compliance with the authority granted in Article III, Section 5.A of the Student Government Association Constitution; This proposal amends the SGC-MMC Statutes starting with Article III, Section 3.04”

Referenced Legislation and Interpretation:

1. SGA CONSTITUTION Article III, Section 5.A: The Supreme Court interprets this bill to be consistent with this article.
2. MMC STATUTES Article III. Section 3.04: The Supreme Court interprets that adding contingency regulations to this section is out of order. This section deals with the powers of standing committees in SGA in which the structure and responsibilities of each committee is outlined. There is no language indicating that funding regulations should/would fall under this section of the MMC Statutes. None of the language mentioned in the bill

directly alters or amends anything said in this section despite language that verbatim implies that this bill is an “amendment” in the portion that states “this proposal amends the SGC-MMC statutes”. If the language is intended to be added and not amended, it would cause a conflict with University Wide stipulations. The effectiveness of such an addition is outlined in a later portion of this interpretation.

Part Two: Verbatim Bill Language:

“ Section III: Bill

ARTICLE VII. FINANCE CODE

Section 7.01 University Wide Statutes

(a) The SGC-MMC shall abide by the Finance Code set forth in the University Wide Statutes.

Section 7.02 Spending of SGC-MMC Contingency funds

(a) Requests to spend contingency funds should only be made to address major emergencies or for large, one time expenditures.

a. Contingency spending requests can be received by any SGC-MMC Budget committee member.

b. The member of the SGC-MMC Budget committee that received the contingency request will convene the SGC-MMC Budget Committee to vote upon the request.

c. If a majority of the SGC-MMC Budget Committee approves the contingency appropriation, it must be signed and approved by the SGC-MMC President and the Comptroller, as well as the Vice President of Student

Affairs or his/her designee to officially be allocated.”

Referenced Legislation and Interpretation:

1. Reference to MMC STATUTES , Section 7.01 University Wide Statutes: The Supreme Court interprets this reference to be consistent and verbatim with the existing language.
2. ADDING “Section 7.02: Spending of SGC-MMC Contingency funds”- The Supreme Courts interprets this language to be an addition to the MMC Statutes Article 7, underneath section 7.01. This would be inconsistent with Section 1 of this bill which states that this bill seeks to amend “*SGC-MMC Statutes starting with Article III. Section 3.04*”.
3. Effectiveness of Language Addition: As iterated in Section 7.01, the SGC-MMC shall abide by the Finance Code set forth in the University Wide Statutes, meaning that any language referring to the regulation of contingency spending in the MMC statutes MUST and WILL be superseded by the language contained in the University Wide Statutes.
 - a. Verbatim Language in University Wide Statutes relevant to contingency spending:

“Each SGC’s Senate Finance Committee must adhere to the following stipulations when appropriating funds: (4) Appropriations or transfers of any contingency shall be approved by the SGA President and the Comptroller, as well as the Vice President of Student Affairs or his/her designee.”
4. Conflict: By adding this bill to section 7.01 of the MMC Finance Statutes, the Senate will be creating conflicting language with the University Wide Statutes which already delineates how

contingency appropriations must be approved. Such conflict in practice will have to be resolved by an in-senate judicial decision on which piece of legislation to follow, in which according to MMC and University Constitutions, in addition to Section 7.01 of the MMC Statutes must be deferred to the University Wide Statutes.

DECISION:

This new procedure outlined in this bill will be ineffective regardless of being an addition or amendment to the MMC Statutes. This is due to the fact that the University Wide Statutes clearly stipulate an alternate procedure for approving contingencies, in which such language will take precedence over any language added into the MMC Statutes. Should this language be adopted, future generations of SGA will still be bound to use the language in the University Wide Statutes. Therefore, let it be resolved that SB3603 will be repealed effective immediately on this day of October 2, 2019.

Recommendations: If senators wish to ensure that this bill is both effective and constitutional, there must be changes made to Section I and Section III of this proposal to ensure that the language location is consistent throughout. Once these changes are made, the bill must be reintroduced as an amendment to the University Wide Statutes in which the procedure for doing so is outlined below. If such procedures are not followed, adoption of such legislation solely into the MMC Statutes will be consistently overturned by the existing language in the University Wide Statutes as aforementioned.

UNIVERSITY WIDE STATUTES Section 4.01 Legislative Process

(a) The University Wide Statutes may be amended by the following procedure:

(i) The amendment must be filed in the SGC-MMC or

SGC-BBC Senate, as a University Wide Council Bill.

(ii) The amendment requires a two-thirds (2/3) majority vote of the SGC Senate which submits the amendment for approval.

(iii) Upon approval by the SGC Senate submitting the amendment, the same University Wide Council Bill must be brought up in the other SGC Senate for a vote.

(1) Should the bill be amended by the SGC Senate receiving the amendment, then the bill shall be sent to the originating SGC Senate for its approval.

(2) Should the originating SGC Senate approve further amendments, then each Senate Speaker shall appoint three (3) Senators from each SGC Senate to form an ad hoc Conference Committee, whose sole purpose shall be to approve a final version of the bill to be

presented to each SGC Senate for approval. This final version of the bill shall not be open to further amendments.

(iv) Alternatively, the Student Government Congress may convene and a University Wide Council Bill may be debated and voted upon by both SGC-MMC and SGC- BBC at the same meeting.

(v) Upon approval by both SGC-MMC Senate and SGC-BBC Senate, the amendment may then be considered by the University Wide Council and approved with a simple majority vote of the council.

(1) The University Wide Council may not amend these Council Bills.

(vi) Once approved by the University Wide Council, the bill shall become law, and shall require the signature of the Chair of the University Wide Council meeting in which the Council Bill is approved.