

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 377 Educational Facilities Financing

SPONSOR(S): Education Committee, Moraitis, Jr.

TIED BILLS: **IDEN./SIM. BILLS:** SB 628

| REFERENCE | ACTION | ANALYST | STAFF DIRECTOR or BUDGET/POLICY CHIEF |
|-------------------------------------|---------------------|---------|--|
| 1) Choice & Innovation Subcommittee | 12 Y, 0 N | Beagle | Fudge |
| 2) Finance & Tax Subcommittee | 18 Y, 0 N | Pewitt | Langston |
| 3) Education Committee | 16 Y, 0 N, As CS | Beagle | Mizereck |

SUMMARY ANALYSIS

The Higher Educational Facilities Financing Authority (authority) is a public corporation which assists eligible institutions of higher education in financing and refinancing educational facilities construction. Among other things, the authority may issue tax-exempt or taxable revenue bonds, which are privately financed and not secured by full faith and credit of the state. Financing acquired through the authority may be used for such construction projects as dormitories, parking and student service facilities, administration and academic buildings, libraries, and loans made in anticipation of tuition revenues.

Independent nonprofit colleges or universities which are located in and chartered by the state of Florida; are accredited by the Southern Association of Colleges and Schools (SACS); grant baccalaureate degrees; and are not a state university or community college may participate in educational facilities construction financing through the authority. This includes all 31 institutions belonging to the Independent Colleges and Universities of Florida (ICUF).

The bill renames the "Higher Educational Facilities Financing Authority" as the "Educational Facilities Financing Authority" and adds authorization for K-12 private schools that are exempt from federal income tax, located in and incorporated by the state of Florida, and accredited by SACS to participate in construction financing through the authority. Accordingly, the term "institution of higher education" is replaced by the terms "educational institution" or "participating institution" throughout Part II of ch. 243, F.S. The bill makes a number of additional nomenclature changes to conform to this expansion of eligibility.

The bill expands the types of projects that the authority may finance by adding:

- Costs for construction of dining halls; student unions; laboratories; research facilities; classrooms; athletic facilities; health care facilities; maintenance, storage, or utility facilities; and related facilities or structures required or useful for the instruction of students, research, or the operation of an educational institution, e.g., parking; and
- Certain purchases of equipment and machinery.

Books, fuel, supplies, or other items which are customarily deemed to be operating costs may not be financed.

The Revenue Estimating Conference met on February 14, 2014, and estimated that the bill would have no impact on state or local revenues.

The bill takes effect July 1, 2014.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

The Higher Educational Facilities Financing Authority (authority) is a public corporation which assists eligible institutions of higher education in financing and refinancing educational facilities construction.¹ Participation in financing through the authority is limited to independent nonprofit colleges or universities which are located in and chartered by the state of Florida; are accredited by the Southern Association of Colleges and Schools (SACS); grant baccalaureate degrees; and are not a state university or community college.² This includes all 31 institutions belonging to the Independent Colleges and Universities of Florida (ICUF).³

Among other things, the authority may issue tax-exempt or taxable revenue bonds; acquire real estate; contract; and execute loans, leases, and other legal instruments.⁴ Bonds issued by the authority are privately financed, are not secured by the full faith and credit of the state, and do not constitute an obligation of the state.⁵ The authority may not enter into a financing agreement with a participating institution unless the institution demonstrates that it is financially responsible and capable of fulfilling its obligations under the agreement.⁶

The authority may only finance such projects as dormitories, parking and student service facilities, administration and academic buildings, libraries, and loans made in anticipation of tuition revenues.⁷ Financing may be provided for project costs related to construction and land acquisition; machinery and equipment; financing charges and interest; provisions for working capital; reserves for principal, interest, and rebate; provisions for extensions, enlargements, additions, and improvements; engineering, financial, and legal services; and construction planning and cost estimating.⁸

Currently, the authority and participating institutions are exempt from taxes or assessments related to a project or any property acquired for a project and any tax on income from those projects. Any bonds issued by the authority, any security for the bonds, the transfer of the bonds, and the income from the bonds (including profit on their sale) and notes, mortgages, security agreements, letters of credit, or other instruments are also exempt from taxation of any kind by the state or any local unit, political subdivision, or other instrumentality of the state. This tax exemption does not apply to income taxes imposed on corporations under ch. 220, F.S.⁹

¹ Part II, ch. 243, F.S.

² Section 243.52(6), F.S. The law defines the terms “institution of higher education” and “participating institution” to be synonymous. *See* s. 243.52(6) and (7), F.S.

³ *See* Independent Colleges and Universities of Florida, *About Us*, <http://www.icuf.org/newdevelopment/about-icuf/> (last visited Feb. 3, 2014). ICUF institutions include Adventist University of Health Sciences, Ave Maria University, Barry University, Beacon College, Bethune-Cookman University, Clearwater Christian College, Eckerd College, Edward Waters College, Embry-Riddle Aeronautical University, Everglades University, Flagler College, Florida College, Florida Institute of Technology, Florida Memorial University, Florida Southern College, Hodges University, Jacksonville University, Keiser University, Lynn University, Nova Southeastern University, Palm Beach Atlantic University, Ringling College of Art and Design, Rollins College, St. Leo University, Southeastern University, St. Thomas University, Stetson University, The University of Tampa, University of Miami, Warner University, and Webber International University. Independent Colleges and Universities of Florida, *School Websites*, <http://www.icuf.org/newdevelopment/schools/> (last visited Feb. 3, 2014).

⁴ Section 243.54, F.S.

⁵ Section 243.64, F.S.; Email, Independent Colleges and Universities of Florida, General Counsel (Feb. 3, 2014).

⁶ Section 243.58(2), F.S.

⁷ Section 243.52(3), F.S.

⁸ Section 243.52(4), F.S.

⁹ Section 243.70, F.S.

The authority's board consists of five members appointed by the Governor.¹⁰ The board must submit an annual report regarding its activities to the Governor and presiding officers of each house of the Legislature within two months of the end of its fiscal year.¹¹

Similar opportunities for higher educational facilities construction financing assistance are available through County Higher Educational Facilities Authorities (CHEFFA). However, since codified in 1969, CHEFFAs exist in only seven counties.¹² The Higher Educational Facilities Financing Authority was codified in 2001, in part, to extend such assistance to eligible institutions of higher education located in counties without a CHEFFA.¹³ A more extensive list of projects may be financed through a CHEFFA. Allowable projects include:

- Costs for construction of dormitories or student housing; dining halls; student unions; administration or academic buildings; libraries; laboratories; research facilities; classrooms; athletic facilities; health care facilities; maintenance, storage, or utility facilities; and related facilities or structures required or useful for the instruction of students, research, or the operation of an educational institution, e.g., parking;
- Certain purchases of equipment and machinery; and
- A loan in anticipation of tuition revenues.

Books, fuel, supplies, or other items which are customarily deemed to be operating costs may not be financed through a CHEFFA.¹⁴

Effect of Proposed Changes

The bill renames the "Higher Educational Facilities Financing Authority" as the "Educational Facilities Financing Authority" and adds authorization for K-12 private schools that are exempt from federal income tax, located in and incorporated by the state of Florida, and accredited by SACS to participate in construction financing through the authority. Accordingly, the term "institution of higher education" is replaced by the terms "educational institution" or "participating institution" throughout Part II of ch. 243, F.S. Public schools, including charter schools, are not eligible to participate in financing through the authority.

The bill replaces the definition of "project" currently applicable to financing of construction projects through the authority with the broader definition currently applicable to CHEFFAs. Thus, allowable projects are expanded to add:

- Costs for construction of dining halls; student unions; laboratories; research facilities; classrooms; athletic facilities; health care facilities; maintenance, storage, or utility facilities; and related facilities or structures required or useful for the instruction of students, research, or the operation of an educational institution, e.g., parking; and
- Certain purchases of equipment and machinery.

Books, fuel, supplies, or other items which are customarily deemed to be operating costs may not be financed through the authority.

Private schools that qualify to participate in construction financing through the authority will be eligible for the tax exemptions currently available to eligible institutions. Additionally, the bill extends the deadline for the authority's annual report from two months to four months after the end of the fiscal year.

¹⁰ Section 243.53(2), F.S.

¹¹ Section 243.73(1), F.S.

¹² Chapter 69-345, L.O.F., *codified as* Part I, ch. 243, F.S.; Email, Independent Colleges and Universities of Florida, General Counsel (Feb. 3, 2014).

¹³ Chapter 2001-79, L.O.F.

¹⁴ Section 243.20(5), F.S.

B. SECTION DIRECTORY:

Section 1. Renames ch. 243, F.S., as “Educational Facilities Bonds” and Part II of ch. 243, F.S., as “Educational facilities financing.”

Section 2. Amends s. 243.50, F.S., relating to Short title.

Section 3. Amends s. 243.51, F.S., relating to Findings and declarations.

Section 4. Amends s. 243.52, F.S., relating to Definitions.

Section 5. Amends s. 243.53, F.S., relating to Creation of Higher Educational Facilities Financing Authority.

Section 6. Amends s. 243.54, F.S., relating to Powers of the authority.

Section 7. Amends s. 243.59, F.S., relating to Approval required to issue bonds.

Section 8. Amends s. 243.66, F.S., relating to Payment of bonds.

Section 9. Amends s. 243.67, F.S., relating to Rates, rents, fees, and charges.

Section 10. Amends s. 243.73, F.S., relating to Reports; audits.

Section 11. Provides an effective date of July 1, 2014.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The Revenue Estimating Conference met on February 14, 2014, and estimated that the bill would have no impact on state revenues.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill extends opportunities to participate in tax-exempt educational facilities construction financing to private, nonprofit, SACS accredited elementary, middle, and secondary schools. This will likely reduce costs incurred for construction and financing; however, the amount of the reduction is indeterminate.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not Applicable. This bill does not appear to affect county or municipal governments.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On March 20, 2014, the Education Committee adopted one amendment and reported the bill favorably as a committee substitute. The amendment clarified the eligibility criteria for private school participation in financing through the authority and specifically provided that public schools are not eligible for such financing.

This bill analysis is drafted to the committee substitute.