

1 A bill to be entitled

2 An act relating to educational facilities financing;  
 3 renaming chapter 243, F.S., and part II thereof to  
 4 conform to changes made by the act; amending ss.  
 5 243.50, 243.51, 243.52, 243.53, 243.54, 243.59,  
 6 243.66, 243.67, and 243.73, F.S.; revising provisions  
 7 relating to the financing of independent nonprofit  
 8 higher educational facilities to include financing for  
 9 private schools meeting certain criteria; revising the  
 10 short title and findings to conform; revising  
 11 definitions; renaming the facilities financing  
 12 authority to conform; revising powers of the  
 13 authority, including the issuance and payment of  
 14 bonds, to conform; revising the date for submission of  
 15 an annual financial report by the authority to the  
 16 Governor and Legislature; providing an effective date.

17  
 18 Be It Enacted by the Legislature of the State of Florida:

19  
 20 Section 1. Chapter 243, Florida Statutes, entitled "Higher  
 21 Educational Facilities Bonds," is renamed "Educational  
 22 Facilities Bonds." Part II of that chapter, entitled "Higher  
 23 Educational Facilities Financing," is renamed "Educational  
 24 Facilities Financing."

25 Section 2. Section 243.50, Florida Statutes, is amended to  
 26 read:

27           243.50 Short title.—Sections 243.50-243.77 may be cited as  
 28 the "~~Higher~~ Educational Facilities Financing Act."

29           Section 3. Section 243.51, Florida Statutes, is amended to  
 30 read:

31           243.51 Findings and declarations.—It is the purpose of ss.  
 32 243.50-243.77 to provide a measure of assistance and an  
 33 alternative method enabling private educational institutions in  
 34 ~~of higher education of~~ this state to provide the facilities and  
 35 structures that they need and to enable those institutions to  
 36 coordinate their budgetary needs with the timing of receipt of  
 37 tuition revenues.

38           Section 4. Subsections (3) through (8) of section 243.52,  
 39 Florida Statutes, are amended to read:

40           243.52 Definitions.—As used in ss. 243.50-243.77, the  
 41 term:

42           (3) "Project" means a structure suitable for use as a  
 43 dormitory or other housing facility, dining hall, student union,  
 44 administration building, academic building, library, laboratory,  
 45 research facility, classroom, athletic facility, health care  
 46 facility, or maintenance, storage, or utility facility, and  
 47 other structures or facilities related thereto, or required  
 48 thereto, or required or useful for the instruction of students,  
 49 or the conducting of research, or the operation of an  
 50 educational institution, including parking and other facilities  
 51 or structures, essential or convenient for the orderly conduct  
 52 of such institution and includes equipment and machinery and

53 other similar items necessary or convenient for the operation of  
54 a particular facility or structure in the manner for which its  
55 use is intended but does not include such items as books, fuel,  
56 supplies, or other items that are customarily deemed to result  
57 in a current operating charge. The term also ~~dormitory, student~~  
58 ~~service facility, parking facility, administration building,~~  
59 ~~academic building, or library~~ and includes a loan in  
60 anticipation of tuition revenues by an educational institution  
61 ~~of higher education,~~ as defined in subsection (6).

62 (4) "Cost," as applied to a project or any portion thereof  
63 financed under ss. 243.50-243.77, includes all or any part of  
64 the cost of construction and acquisition of all lands,  
65 structures, real property, rights, rights-of-way, franchises,  
66 easements, and interests acquired or used for a project; the  
67 cost of demolishing or removing any buildings or structures on  
68 land so acquired, including the cost of acquiring any lands to  
69 which the buildings or structures may be removed; the cost of  
70 all machinery and equipment, financing charges, and interest  
71 before, during, and for a period of 30 months after completion  
72 of the construction; provisions for working capital, reserves  
73 for principal, interest, and rebate; provisions for extensions,  
74 enlargements, additions, and improvements; the cost of  
75 engineering, financial, and legal services; the cost of plans,  
76 specifications, studies, surveys, estimates of costs and  
77 revenues, administrative expenses, and expenses necessary to  
78 determining the feasibility or practicability of constructing

79 the project; and other expenses necessary for constructing and  
 80 acquiring the project, financing the construction, and placing  
 81 the project in operation. In the case of a loan in anticipation  
 82 of tuition revenues, the term "cost" means the amount of the  
 83 loan in anticipation of revenues which does not exceed the  
 84 amount of tuition revenues anticipated to be received by the  
 85 borrowing institution ~~of higher education~~ in the 1-year period  
 86 following the date of the loan, plus costs related to the  
 87 issuance of the loan, or the amount of the bonds, the proceeds  
 88 of which fund the loans and any related cost of debt service,  
 89 reserve funds, and rebate associated therewith.

90 (5) "Bond" or "revenue bond" means a revenue bond of the  
 91 authority issued under ss. 243.50-243.77, including a revenue  
 92 refunding bond, notwithstanding that it may be secured by  
 93 mortgage or the full faith and credit of a participating  
 94 institution ~~of higher education~~ or any other lawfully pledged  
 95 security of a participating institution ~~of higher education~~.

96 (6) "Educational institution of higher education" means:

97 (a) An independent nonprofit college or university that  
 98 ~~which~~ is located in and chartered by the state; that ~~which~~ is  
 99 accredited by the Commission on Colleges of the Southern  
 100 Association of Colleges and Schools; that ~~which~~ grants  
 101 baccalaureate degrees; and that ~~which~~ is not a state university  
 102 or Florida College System institution ~~state community college~~.

103 (b) A private school, as defined in s. 1002.01(2), that is  
 104 located in and incorporated by the state, exempt from federal

105 income tax under s. 501(c)(3) of the Internal Revenue Code, and  
 106 accredited by the Southern Association of Colleges and Schools  
 107 Council on Accreditation and School Improvement. The term  
 108 "private school" does not include any public K-12 school  
 109 specified under s. 1000.04(1).

110 (7) "Participating institution" means an educational  
 111 institution of higher education, as defined in subsection (6),  
 112 that undertakes the financing and construction or acquisition of  
 113 a project or undertakes the refunding or refinancing of  
 114 obligations or of a mortgage or of advances as provided in and  
 115 permitted by ss. 243.50-243.77.

116 (8) "Loan in anticipation of tuition revenues" means a  
 117 loan to a participating ~~an~~ institution of higher education under  
 118 circumstances in which tuition revenues anticipated to be  
 119 received by the institution in any budget year are estimated to  
 120 be insufficient at any time during the budget year to pay the  
 121 operating expenses or other obligations of the institution in  
 122 accordance with the budget of the institution.

123 Section 5. Subsections (1) and (2) of section 243.53,  
 124 Florida Statutes, are amended to read:

125 243.53 Creation of ~~Higher~~ Educational Facilities Financing  
 126 Authority.—

127 (1) There is created a public body corporate and politic  
 128 to be known as the ~~Higher~~ Educational Facilities Financing  
 129 Authority. The authority is constituted as a public  
 130 instrumentality, and the exercise by the authority of the powers

131 conferred by ss. 243.50-243.77 is considered to be the  
 132 performance of an essential public function. Chapters 119 and  
 133 286 apply to the authority.

134 (2) The authority shall consist of five members to be  
 135 appointed by the Governor, subject to confirmation by the  
 136 Senate. One member shall be a trustee, director, officer, or  
 137 employee of a participating ~~an~~ institution ~~of higher education~~.  
 138 Of the members first appointed, one shall serve for 1 year, one  
 139 for 2 years, one for 3 years, one for 4 years, and one for 5  
 140 years, and in each case until his or her successor is appointed  
 141 and has qualified. Thereafter, the Governor shall appoint for  
 142 terms of 5 years each a member or members to succeed those whose  
 143 terms expire. The Governor shall fill any vacancy for an  
 144 unexpired term. A member of the authority is eligible for  
 145 reappointment. Any member of the authority may be removed by the  
 146 Governor for misfeasance, malfeasance, or willful neglect of  
 147 duty. Each member of the authority before entering upon his or  
 148 her duties shall take and subscribe to the oath or affirmation  
 149 required by the State Constitution. A record of each oath must  
 150 be filed in the office of the Department of State and with the  
 151 authority.

152 Section 6. Section 243.54, Florida Statutes, is amended to  
 153 read:

154 243.54 Powers of the authority.—The purpose of the  
 155 authority is to assist participating institutions ~~of higher~~  
 156 ~~education~~ in constructing, financing, and refinancing projects

157 throughout the state, and~~7~~ for this purpose, the authority may:

158 (1) Exercise all powers granted to corporations under the  
159 Florida Business Corporation Act, chapter 607.

160 (2) Have perpetual succession as a body politic and  
161 corporate and adopt bylaws for the regulation of its affairs and  
162 the conduct of its business.

163 (3) Adopt an official seal and alter the same at its  
164 pleasure.

165 (4) Maintain an office at any place in the state that it  
166 may designate.

167 (5) Sue and be sued in its own name, and plead and be  
168 impleaded.

169 (6) Make and execute financing agreements, leases, as  
170 lessee or as lessor, contracts, deeds, and other instruments  
171 necessary or convenient in the exercise of the powers and  
172 functions of the authority, including contracts with persons,  
173 firms, corporations, federal and state agencies, and other  
174 authorities, which state agencies and other authorities are  
175 authorized to enter into contracts and otherwise cooperate with  
176 the authority to facilitate the financing, construction,  
177 leasing, or sale of any project or the institution of any  
178 program; engage in sale-leaseback, lease-purchase, lease-  
179 leaseback, or other undertakings and provide for the sale of  
180 certificates of participation incident thereto; and enter into  
181 interlocal agreements in the manner provided in s. 163.01.

182 (7) Determine the location and character of any project to

183 be financed under ss. 243.50-243.77 and may:

184 (a) Construct, reconstruct, maintain, repair, and lease  
185 the project as lessee or lessor.

186 (b) Enter into contracts for any of those purposes.

187 (c) Designate a participating institution as its agent to  
188 determine the location and character of a project undertaken by  
189 a participating institution under ss. 243.50-243.77 and, as the  
190 agent of the authority, construct, reconstruct, maintain,  
191 repair, own, and lease the project as lessee or lessor.

192 (8) Issue bonds, bond anticipation notes, and other  
193 obligations of the authority for any of its corporate purposes,  
194 including the provision of funds to pay all or any part of the  
195 cost of any project and to fund or refund the cost of any  
196 project as provided in ss. 243.50-243.77.

197 (9) Establish rules for the use of a project or any  
198 portion thereof and designate a participating institution as its  
199 agent to establish rules for the use of a project undertaken by  
200 the participating institution.

201 (10) Employ consulting engineers, architects, attorneys,  
202 accountants, construction and financial experts,  
203 superintendents, managers, and other employees and agents as  
204 necessary, ~~and~~ fix their compensation.

205 (11) Receive and accept from any public agency loans or  
206 grants for or in aid of the construction of a project or any  
207 portion thereof, and receive and accept loans, grants, aid, or  
208 contributions from any source of money, property, labor, or



209 other things of value, to be held, used, and applied only for  
 210 the purposes for which the loans, grants, aid, and contributions  
 211 are made.

212 (12) Mortgage any project and the site thereof for the  
 213 benefit of the holders of revenue bonds issued to finance  
 214 projects or those providing credit for that purpose.

215 (13) Make loans to any participating institution for the  
 216 cost of a project, including a loan in anticipation of tuition  
 217 revenues, in accordance with an agreement between the authority  
 218 and the participating institution. However, a loan may not  
 219 exceed the total cost of the project as determined by the  
 220 participating institution and approved by the authority.

221 (14) Make loans to a participating institution to refund  
 222 outstanding obligations, mortgages, or advances issued, made, or  
 223 given by the participating institution for the cost of a  
 224 project.

225 (15) Charge to and equitably apportion among participating  
 226 institutions its administrative costs and expenses incurred in  
 227 the exercise of the powers and duties conferred by ss. 243.50-  
 228 243.77.

229 (16) Contract with an entity as its agent to assist the  
 230 authority in screening applications of participating  
 231 institutions ~~of higher education~~ for loans under ss. 243.50-  
 232 243.77 and receive any recommendations the entity may make.

233 (17) Do all things necessary or convenient to carry out  
 234 the purposes of ss. 243.50-243.77.

235 Section 7. Section 243.59, Florida Statutes, is amended to  
 236 read:

237 243.59 Approval required to issue bonds.—The authority is  
 238 created for the purpose of promoting private nonprofit higher  
 239 education and issuing bonds on behalf of the state, and the  
 240 Governor may approve any bonds issued by the authority which  
 241 require approval under federal law.

242 Section 8. Section 243.66, Florida Statutes, is amended to  
 243 read:

244 243.66 Payment of bonds.—Revenue bonds issued under ss.  
 245 243.50-243.77 are not a debt or liability of the authority, any  
 246 municipality, the state, or any political subdivision thereof,  
 247 and are not a pledge of the faith and credit of the state, the  
 248 authority, any municipality, or any political subdivision  
 249 thereof, but are payable solely from revenues of the authority  
 250 pertaining to the project relating to the issue; payments by  
 251 participating institutions ~~of higher education~~, banks, insurance  
 252 companies, or others under letters of credit or purchase  
 253 agreements; investment earnings from funds or accounts  
 254 maintained under the bond resolution; insurance proceeds; loan  
 255 funding deposits; proceeds of sales of education loans; proceeds  
 256 of refunding obligations; and fees, charges, and other revenues  
 257 of the authority from the project. All revenue bonds must  
 258 contain on the face thereof a statement to the effect that  
 259 neither the authority nor any municipality, the state, or any  
 260 political subdivision thereof is obligated to pay the bond or

261 the interest thereon except from revenues of the project or the  
262 portion thereof for which they are issued, and that neither the  
263 faith and credit nor the taxing power of the authority, any  
264 municipality, the state, or any political subdivision thereof is  
265 pledged to the payment of the principal of or the interest on  
266 the bonds. The issuance of revenue bonds under ss. 243.50-243.77  
267 may not directly, indirectly, or contingently obligate the  
268 authority, any municipality, the state, or any political  
269 subdivision thereof to levy or to pledge any form of taxation  
270 therefor or to make any appropriation for their payment.

271 Section 9. Subsection (3) of section 243.67, Florida  
272 Statutes, is amended to read:

273 243.67 Rates, rents, fees, and charges.—

274 (3) The use and disposition of moneys to the credit of a  
275 sinking or other similar fund must be subject to the resolution  
276 authorizing the issuance of the bonds or of the trust agreement.  
277 Except as otherwise provided in the resolution or the trust  
278 agreement, the sinking or other similar fund must be a fund for  
279 all revenue bonds issued to finance projects at a particular  
280 participating institution ~~of higher education~~ without  
281 distinction or priority of one over another. However, the  
282 authority in any resolution or trust agreement may provide that  
283 the sinking or other similar fund be the fund for a particular  
284 project at a participating institution and for payment of the  
285 revenue bonds issued to finance that project, and may,  
286 additionally, permit and provide for the issuance of revenue

287 | bonds having a subordinate lien in respect of the security  
288 | authorized to other revenue bonds of the authority, and~~7~~ in such  
289 | case, the authority may create separate sinking or other similar  
290 | funds in respect of the subordinate lien bonds.

291 | Section 10. Subsection (1) of section 243.73, Florida  
292 | Statutes, is amended to read:

293 | 243.73 Reports; audits.—

294 | (1) The authority shall submit to the Governor and the  
295 | presiding officers of each house of the Legislature, within 4 ~~2~~  
296 | months after the end of its fiscal year, a complete and detailed  
297 | report setting forth:

298 | (a) Its operations and accomplishments.

299 | (b) Its receipts and expenditures during its fiscal year  
300 | in accordance with the categories or classifications established  
301 | by the authority for its operating and capital outlay purposes.

302 | (c) Its assets and liabilities at the end of its fiscal  
303 | year and the status of reserve, special, or other funds.

304 | (d) A schedule of its bonds outstanding at the end of its  
305 | fiscal year, together with a statement of the principal amounts  
306 | of bonds issued and redeemed during the fiscal year.

307 | (e) Any other information the authority deems appropriate.

308 | Section 11. This act shall take effect July 1, 2014.