

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based only on the provisions contained in the legislation as of the latest date listed below.)

Date: March 11, 1998 Revised: _____

Subject: Nonprofit Private Schools

	<u>Analyst</u>	<u>Staff Director</u>	<u>Reference</u>	<u>Action</u>
1.	O'Farrell	O'Farrell	ED	Favorable
2.	_____	_____	WM	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____

I. Summary:

This bill would allow local governments or local bond authorities to issue bonds, under the Florida Industrial Development Financing Act, to finance educational facilities and property used by nonprofit, private school corporations. The bill would also provide that bonds issued pursuant to the act would not be considered a debt, liability, or obligation of the state or any of its political subdivisions, or a pledge of the full faith and credit of those governments.

This bill amends sections 159.27 and 623.13 of the Florida Statutes.

II. Present Situation:

Florida Industrial Development Financing Act

The Florida Industrial Development Financing Act (part II of Chapter 159, F.S.) permits local governments, or bonding authorities formed by local governments, to issue bonds to finance projects, including:

- research and development parks,
- agricultural processing or storage facilities,
- warehousing or distribution facilities,
- headquarters facilities,
- tourism facilities,
- public lodging or restaurant facilities,
- convention or trade show facilities,
- urban parking facilities,
- trade centers,
- health care facilities,

- airport or port facilities,
- commercial projects in enterprise zones,
- motion picture production facilities,
- preservation or rehabilitation of certified historic structure,
- educational facilities,
- mass commuting facilities, and
- social service centers.

Bonds issued to finance these facilities are exempt from state taxation.

Currently, local governments are not authorized to issue bonds to finance educational facilities used in the operation of private school corporations. Section 159.27(22), F.S., defines an “educational facility” as a “structure suitable for use as a dormitory or other housing facility or a dining facility, that is operated in the public sector and used for or useful in connection with the operation of an institution for higher education.”

Not-for-profit Corporations

Chapter 617, F.S., the Florida Not For Profit Corporation Act, governs the establishment, administration, and operation of corporations that do not distribute any corporate income or profits to its members, directors, or officers.

Private School Corporations

Chapter 623, F.S., allows 25 or more adult Floridians to form a private school corporation. The chapter establishes procedures for forming a private school corporation. Each private school corporation must be a private corporation for charitable and benevolent purposes. Section 623.09, F.S., exempts such corporations from taxation as provided by Florida law. Section 623.10, F.S., grants such corporations specific powers and duties, including the ability to purchase real and tangible personal property, and to issue notes of indebtedness.

Any corporation formed under Chapter 623 must be administered, supervised, operated, financed, and controlled exclusively by private persons and their funds (s. 623.13, F.S.). Public officials are prohibited from engaging in any such affairs of the corporation.

III. Effect of Proposed Changes:

This bill allows local governments or local bond authorities to issue bonds to finance educational facilities used in the operation of a private school corporation established under chapters 617 (not-for-profit corporations) or 623 (private school corporations), F.S. This is accomplished by expanding the definition of “educational facility” for purposes of the Florida Industrial Financing Act to include any property used in the operation of any private school corporation that is established under chapters 617 or 623, F.S., is not operated for private or corporate profit, and is exempt from federal taxation under s. 501(c)(3) of the Internal Revenue Code of 1986, as amended. The proposed language would allow local governments to issue bonds to pay for any

“property” of eligible private school corporations, not just for the educational facility’s “structure.” As currently defined, the term “educational facility” is limited to “structures” used in the operation of accredited, nonprofit higher education institution. In addition, bonds so issued for such schools would not be a debt, liability, or obligation of the state or any of its political subdivisions, and would not constitute a pledge of faith or credit of the state or any of its political subdivision.

The bill also amends s. 623.13, F.S., which governs the administration, supervision, operation, financing, and control of private school corporations. The amended section specifies that those provisions do not prohibit local governments from issuing bonds to finance educational facilities as provided in parts II and III of ch. 159, F.S, the Florida Industrial Financing Act.

This bill does not address how assets would be handled if the private school corporation dissolved after receiving the benefits of bonds issued by a local government.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The bill does not require county or municipal governments to issue bonds for educational facilities operated by private school corporations.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Private school providers taking advantage of the bonding provisions would have access to low-cost, tax-exempt debt.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Amendments:

None.

This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.
