

Bill No. CS for CS for SB 2048

Barcode 085638

	CHAMBER ACTION	
<u>Senate</u>		<u>House</u>

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Senator Alexander moved the following amendment:

Senate Amendment (with title amendment)

On page 109, between lines 5 and 6,

insert:

Section 50. Section 1010.62, Florida Statutes, is created to read:

1010.62 Revenue bonds and debt.--

(1) As used in this section, the term:

(a) "Debt" means bonds, except revenue bonds as defined in paragraph (d), loans, promissory notes, lease-purchase agreements, certificates of participation, installment sales, leases, or any other financing mechanism or financial arrangement, whether or not a debt for legal purposes, for financing or refinancing for or on behalf of, a state university or a direct-support organization or for the acquisition, construction, improvement, or purchase of capital outlay projects.

(b) "Direct-support organization" means those created pursuant to s. 1004.28 or any entity specifically established

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1 to incur debt.

2 (c) "Capital outlay project" means:

3 1. Any project to acquire, construct, improve, or
4 change the functional use of land, buildings, and other
5 facilities, including furniture and equipment necessary to
6 operate a new or improved building or facility; and

7 2. Any other acquisition of equipment or software.

8 (d) "Revenue bonds" means any obligation that
9 constitutes a revenue bond pursuant to s. 11(d), Art. VII of
10 the State Constitution.

11 (2)(a) The Board of Governors may request the issuance
12 of revenue bonds pursuant to the State Bond Act and s. 11(d),
13 Art. VII of the State Constitution to finance or refinance
14 capital outlay projects permitted by law. Revenue bonds may be
15 secured by or payable only from those revenues authorized for
16 such purpose, including the capital improvement fee, the
17 building fee, the health fee, the transportation access fee,
18 the activity and service fee, the athletic fee, hospital
19 revenues or those revenues derived from or received in
20 relation to sales and services of auxiliary enterprises or
21 component units of the university, including, but not limited
22 to, housing, transportation, health care, research or
23 research-related activities, food service, retail sales,
24 athletic activities, or other similar services, other revenues
25 attributable to the projects to be financed or refinanced, any
26 other revenue approved by the Legislature for facilities
27 construction or for securing revenue bonds issued pursuant to
28 s. 11(d), Art. VII of the State Constitution, or any other
29 revenues permitted by law. The assets of a university
30 foundation and the earnings thereon may also be used to pay
31 and secure revenue bonds of the university or its

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1 direct-support organizations. Revenues from royalties and
 2 licensing fees may also be used to pay and secure revenue
 3 bonds so long as the facilities being financed are
 4 functionally related to the university operation or
 5 direct-support organization reporting such royalties and
 6 licensing fees. Revenue bonds may not be secured by or be
 7 payable from, directly or indirectly, tuition, the financial
 8 aid fee, sales and services of educational departments,
 9 revenues from grants and contracts, except for money received
 10 for overhead and indirect costs and other moneys not required
 11 for the payment of direct costs, or any other operating
 12 revenues of a state university.

13 (b) In connection with the issuance of revenue bonds,
 14 the Board of Governors, and the state university if so
 15 designated by the Board of Governors, shall comply with all
 16 covenants, commitments, or other provisions relating to the
 17 revenue bonds. Such covenants, commitments, or other
 18 provisions, in addition to those provided in the State Bond
 19 Act, may relate to:

20 1. Pledging the fees, charges, and other revenues that
 21 secure the revenue bonds;

22 2. Fixing and maintaining fees, rates, and other
 23 charges pledged to the payment of the revenue bonds;

24 3. Providing a lien on the revenues pledged;

25 4. Preventing or providing for the creation of other
 26 liens on the fees, charges, and other revenues that secure the
 27 revenue bonds;

28 5. Establishing and maintaining reserves for debt
 29 service payments on revenue bonds;

30 6. Providing for the operation, maintenance, and
 31 improvement of facilities that are related to the generation

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1 of the fees, revenues, and other charges pledged to the
2 payment of the revenue bonds; and

3 7. Establishing any other covenants, commitments, or
4 provisions that are deemed necessary or advisable to enhance
5 the security of the revenue bonds, or the marketability
6 thereof, and that are customary in accordance with the market
7 requirements for the sale of such revenue bonds.

8 (3)(a) A state university or direct-support
9 organization may not issue debt without the approval of the
10 Board of Governors. The Board of Governors may approve the
11 issuance of debt by a state university or a direct-support
12 organization only when such debt is used to finance or
13 refinance capital outlay projects. The debt may be secured by
14 or payable only from those revenues authorized for such
15 purpose, including the capital improvement fee, the building
16 fee, the health fee, the transportation access fee, the
17 activity and service fee, the athletic fee, hospital revenues
18 or those revenues derived from or received in relation to
19 sales and services of auxiliary enterprises or component units
20 of the university, including, but not limited to, housing,
21 transportation, health care, research or research-related
22 activities, food service, retail sales, athletic activities,
23 or other similar services. The assets of university
24 foundations and the earnings thereon may be used to pay and
25 secure debt of the university or its direct-support
26 organizations. Gifts and donations or pledges of gifts may
27 also be used to secure debt so long as the maturity of the
28 debt, including extensions, renewals, and refundings, does not
29 exceed 5 years. Revenues from royalties and licensing fees may
30 also be used to secure debt so long as the facilities being
31 financed are functionally related to the university operation

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1 or direct-support organization reporting such royalties and
 2 licensing fees. The debt may not be secured by or be payable
 3 from, directly or indirectly, tuition, the financial aid fee,
 4 sales and services of educational departments, revenues from
 5 grants and contracts, except for money received for overhead
 6 and indirect costs and other moneys not required for the
 7 payment of direct costs of grants, or any other operating
 8 revenues of a state university. The debt of direct-support
 9 organizations may not be secured by or be payable under an
 10 agreement or contract with a state university unless the
 11 source of payments under such agreement or contract is limited
 12 to revenues that universities are authorized to use for
 13 payment of debt service. Debt may not be approved to finance
 14 or refinance operating expenses of a state university or a
 15 direct-support organization. The maturity of debt used to
 16 finance or refinance the acquisition of equipment or software,
 17 including any extensions, renewals, or refundings thereof,
 18 shall be limited to 5 years or the estimated useful life of
 19 the equipment or software, whichever is shorter. The Board of
 20 Governors may establish conditions and limitations on such
 21 debt as it determines to be advisable.

22 (b) Approval by the Board of Governors of the issuance
 23 of debt shall be based upon a determination that the debt:

24 1. Is for a purpose consistent with the mission of the
 25 state university;

26 2. Is structured in a manner appropriate for the
 27 prudent financial management of the state university;

28 3. Is to be incurred in a manner consistent with
 29 policies governing the issuance of state debt;

30 4. Is secured by revenues adequate to provide for all
 31 payments relating to the debt;

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1 5. Has been analyzed by the Division of Bond Finance
2 and issues raised by such analysis having been appropriately
3 considered by the Board of Governors; and

4 6. Is consistent with the requirements of any policies
5 or criteria adopted by the Board of Governors for the approval
6 of debt.

7 (c) Notwithstanding paragraphs (a) and (b), state
8 universities and direct-support organizations may engage in
9 the following activities without the approval of the Board of
10 Governors:

11 1. State universities may lease-purchase equipment and
12 software in accordance with the deferred-purchase provisions
13 in chapter 287 and direct-support organizations may
14 lease-purchase equipment and software to the extent that the
15 overall term of the financing, including any extension,
16 renewal, or refinancing thereof, does not exceed 5 years or
17 the estimated useful life of the equipment or software,
18 whichever is shorter;

19 2. Direct-support organizations may issue promissory
20 notes and grant conventional mortgages for the acquisition of
21 real property; and

22 3. State universities and direct-support organizations
23 may secure debt with gifts and donations and pledges of gifts
24 so long as the facilities being financed thereby have been
25 included in the university's 5-year capital improvement plan
26 that has been approved by the Board of Governors and the
27 maturity of the debt, including any extension, renewal, or
28 refunding, does not exceed 5 years.

29 (4) The approval by the Board of Governors of revenue
30 bonds, except refunding bonds, or debt must be requested by a
31 resolution of the board of trustees of each state university

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1 involved in the issuance of the revenue bonds or debt.

2 (5) Revenue bonds or debt issued under this section
3 may be secured on a parity with prior revenue bonds or debt
4 issued by or on behalf of one or more universities or a
5 direct-support organization.

6 (6) Capital outlay projects to be financed by revenue
7 bonds or debt are limited to those approved by the Legislature
8 through approval of the specific project or general approval
9 of the type or category of capital outlay project.

10 (7)(a) As required pursuant to s. 11(d), Art. VII of
11 the State Constitution and subsection (6), the Legislature
12 approves capital outlay projects meeting the following
13 requirements:

14 1. The project is located on a campus of a state
15 university or on land leased to the university or is used for
16 activities relating to the state university;

17 2. The project is included in the master plan of the
18 state university or is for facilities that are not required to
19 be in a university's master plan;

20 3. The project is approved by the Board of Governors
21 as being consistent with the strategic plan of the state
22 university and the programs offered by the state university;
23 and

24 4. The project is for purposes relating to the
25 housing, transportation, health care, research or
26 research-related activities, food service, retail sales, or
27 student activities of the state university.

28 (b) Capital outlay projects for the acquisition of
29 equipment or software are also approved for purposes of
30 subsection (6) to the extent that the overall term of the
31 financing, including any extension, renewal, or refinancing

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1 thereof, does not exceed 5 years or the estimated useful life
2 of the equipment or software, whichever is shorter.

3 (8) Notwithstanding any other law, the Board of
4 Governors, each state university, and any direct-support
5 organization must comply with the provisions of this section
6 in order to issue or enter into agreements for the issuance of
7 revenue bonds or debt.

8 (9) The Board of Governors may adopt such policies as
9 may be necessary or desirable for carrying out all of the
10 requirements of this section and may do all things necessary
11 or desirable to carry out the powers granted under this
12 section. Such policies may include categories of debt, other
13 than revenue bonds, which may be issued without approval of
14 the specific issuance by the Board of Governors if the
15 issuance complies with any terms, conditions, or requirements
16 included in such policy and laws governing the imposition of
17 fees and laws requiring specific authority to pledge revenues
18 to secure debt.

19 (10) Any legal commitments, contracts, or other
20 obligations relating to the financing of capital outlay
21 projects which were lawfully entered into before the effective
22 date of this section shall remain in full force and effect.
23 Any such legal commitment, contract, or other obligation may
24 be amended without compliance with this section, but only to
25 the extent that such amendment does not extend the term of the
26 underlying obligation or increase the financial obligation of
27 the Board of Governors, a state university, or a
28 direct-support organization.

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30 (Redesignate subsequent sections.)

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1 ===== T I T L E A M E N D M E N T =====

2 And the title is amended as follows:

3 On page 8, line 30, after the first semicolon,

4

5 insert:

6 creating s. 1010.62, F.S.; providing

7 definitions; authorizing the Board of Governors

8 to request the issuance of revenue bonds for

9 certain purposes; providing for such bonds to

10 be secured by or payable from certain specified

11 revenues; authorizing certain covenants,

12 commitments, or other provisions; providing for

13 the issuance of debt by a state university or

14 direct-support organization upon the approval

15 of the Board of Governors; providing

16 requirements for such approval; authorizing

17 state universities and direct-support

18 organizations to lease-purchase equipment,

19 issue promissory notes, and secure debt with

20 gifts and donations under certain circumstances

21 without approval of the Board of Governors;

22 providing requirements for a board of trustees

23 in obtaining approval for revenue bonds and

24 capital outlay projects; providing for the

25 approval of certain specified projects;

26 authorizing the Board of Governors to adopt

27 policies; providing for the continued effect of

28 current commitments, contracts, or other

29 obligations;

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