

Bill No. CS for SB 2048

Barcode 252106

CHAMBER ACTION

Senate

House

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The Committee on Education Appropriations (Wise) recommended
the following amendment:

Senate Amendment (with title amendment)

On page 138, between lines 24 and 25,

insert:

Section 64. Section 1010.62, Florida Statutes, is
created to read:

1010.62 Revenue bonds and debt for state
universities.--

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

(a) "Capital outlay project" means:

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

2. Any other acquisition of equipment or software.

(b) "Debt" means bonds except revenue bonds as defined
in paragraph (d), loans, promissory notes, lease-purchase
agreements, certificates of participation, installment sales,

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1 leases, or any other financing mechanism or financial
 2 arrangement, whether or not a debt for legal purposes, for
 3 financing or refinancing, for or on behalf of a state
 4 university or a direct-support organization, the acquisition,
 5 construction, improvement, or purchase of capital outlay
 6 projects.

7 (c) "Direct-support organization" means any entity
 8 created pursuant to s. 1004.28 or any entity specifically
 9 established to incur debt on behalf of a state university.

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

13 (2)(a) The Board of Governors may request the issuance
 14 of revenue bonds pursuant to the State Bond Act and s. 11(d),
 15 Art. VII of the State Constitution to finance or refinance
 16 capital projects permitted by law.

17 1.a. Revenue bonds may only be secured by or payable
 18 from those revenues authorized for such purpose including the
 19 health fee, the transportation access fee, hospital revenues
 20 or those revenues derived from or received in relation to
 21 sales and services of auxiliary enterprises or component units
 22 of the university, including, but not limited to, housing,
 23 transportation, health care, research or research-related
 24 activities, food service, retail sales, athletic activities,
 25 or similar services, other revenue attributable to the
 26 projects to be financed or refinanced, any other revenue
 27 approved by the Legislature for facilities construction or for
 28 securing revenue bonds issued pursuant to s. 11(d), Art. VII
 29 of the State Constitution, or any other revenues permitted by
 30 law.

31 b. The assets of a university foundation and the

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1 earnings thereon may also be used to pay and secure revenue
2 bonds of the university or its direct-support organizations.

3 c. Revenues from royalties and licensing fees may be
4 used to pay and secure revenue bonds so long as the facilities
5 being financed are functionally related to the university
6 operation or direct-support organization reporting such
7 royalties and licensing fees.

8 2.a. Revenue bonds may not be secured by or payable
9 from, either directly or indirectly, tuition, the financial
10 aid fee, the activity and service fee, the athletic fee, sales
11 and services of educational departments, revenues from
12 contracts and grants, except for money received for overhead
13 and indirect costs and other moneys not required for the
14 payment of direct costs of grants, state operating revenues,
15 or any other operating revenues of a state university.

16 b. Revenues from one auxiliary enterprise or component
17 unit may not be used to secure revenue bonds of another unless
18 such activities and facilities are functionally related.

19 (b) In connection with the issuance of revenue bonds,
20 the Board of Governors and the state university if so
21 designated by the Board of Governors shall comply with all
22 covenants, commitments, or other provisions relating to
23 revenue bonds. Such covenants, commitments, or other
24 provisions, in addition to those provided in the State Bond
25 Act, may relate to:

26 1. Pledging the fees, charges, and other revenues that
27 secure the revenue bonds.

28 2. Fixing and maintaining fees, rates, and other
29 charges pledged to the payment of the revenue bonds.

30 3. Providing a lien on the revenues pledged.

31 4. Preventing or providing for the creation of other

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1 liens on the fees, charges, and other revenues that secure the
2 revenue bonds.

3 5. Establishing and maintaining reserves for debt
4 service payments on revenue bonds.

5 6. Providing for the operation, maintenance, and
6 improvement of facilities that are related to the generation
7 of the fees, revenues, and other charges pledged to the
8 payment of the revenue bonds.

9 7. Establishing any other covenants, commitments, or
10 provisions that are deemed necessary or advisable to enhance
11 the security of the revenue bonds, or the marketability
12 thereof, and that are customary in accordance with the market
13 requirements for the sale of such revenue bonds.

14 (3)(a) No state university or direct-support
15 organization may issue debt without the approval of the Board
16 of Governors.

17 1. The Board of Governors may only approve the
18 issuance of debt by a state university or a direct-support
19 organization when such debt is used to finance or refinance
20 capital outlay projects that are necessary and desirable to
21 serve the needs and purposes of the state university.

22 2.a. The debt may only be secured by or payable from
23 those revenues authorized for such purpose, including the
24 health fee, the transportation access fee, hospital revenues
25 or those revenues derived from or received in relation to
26 sales and services of auxiliary enterprises or component units
27 of the university, including, but not limited to, housing,
28 transportation, health care, research or research-related
29 activities, food service, retail sales, athletic activities,
30 or other similar services.

31 b. The assets of university foundations and the

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1 earnings thereon may be used to pay and secure debt of the
2 university or its direct-support organizations.

3 c. Gifts and donations or pledges of gifts may also be
4 used to secure debt so long as the maturity of the debt,
5 including extensions, renewals, and refundings, does not
6 exceed 5 years.

7 d. Revenues from royalties and licensing fees may also
8 be used to secure debt so long as the facilities being
9 financed are functionally related to the university operation
10 or direct-support organization reporting such royalties and
11 licensing fees.

12 3.a. The debt may not be secured by or payable from,
13 either directly or indirectly, tuition, the financial aid fee,
14 the activity and service fee, the athletic fee, sales and
15 services of educational departments, revenues from contracts
16 and grants, except for money received for overhead and
17 indirect costs and other moneys not required for the payment
18 of direct costs of grants, state operating revenues, or any
19 other operating revenues of a state university.

20 b. The debt of direct-support organizations may not be
21 secured by or payable under an agreement or contract with a
22 state university unless the source of payments under such
23 agreement or contract is limited to revenues that universities
24 are authorized to use for payment of debt service.

25 c. Revenues from one auxiliary enterprise or component
26 unit may not be used to secure debt of another unless such
27 activities and facilities are functionally related.

28 4. No debt may be approved to finance or refinance
29 operating expenses of a state university or a direct-support
30 organization.

31 5. The maturity of debt used to finance or refinance

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1 the acquisition of equipment or software, including any
2 extensions, renewals, or refundings thereof, shall be limited
3 to 5 years or the estimated useful life of the equipment or
4 software, whichever is shorter.

5 6. The Board of Governors may establish conditions and
6 limitations on such debt service as it determines to be
7 advisable.

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

10 1. Is for a purpose consistent with the mission of the
11 state university.

12 2. Is structured in a manner appropriate for the
13 prudent financial management of the state university.

14 3. Is to be incurred in a manner consistent with the
15 policies governing the issuance of the state debt.

16 4. Is secured by revenues adequate to provide for all
17 payments relating to the debt.

18 5. Has been analyzed by the Division of Bond Finance,
19 with all issues raised by such analysis having been
20 appropriately considered by the Board of Governors.

21 6. Is consistent with the requirements of any policies
22 or criteria adopted by the Board of Governors for the approval
23 of debt.

24 (c) Notwithstanding the provisions of paragraphs (a)
25 and (b), state universities and direct-support organizations
26 may engage in the following activities without the Board of
27 Governors' approval:

28 1. State universities may lease-purchase equipment and
29 software in accordance with the deferred-payment purchase
30 provisions in chapter 287, and direct-support organizations
31 may lease-purchase equipment and software to the extent that

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1 the overall term of the financing, including any extension,
2 renewal, or refinancings thereof, does not exceed 5 years or
3 the estimated useful life of the equipment or software,
4 whichever is shorter.

5 2. Direct-support organizations may issue promissory
6 notes and grant conventional mortgages for the acquisition of
7 real property.

8 3. State universities and direct-support organizations
9 may secure debt with gifts and donations and pledges of gifts
10 so long as the facilities being financed thereby have been
11 included in the university's 5-year capital improvement plan
12 which has been approved by the Board of Governors and the
13 maturity of the debt, including extensions, renewals, and
14 refundings, does not exceed 5 years.

15 (4) The approval of the Board of Governors of revenue
16 bonds, except refunding bonds, or debt must be requested by a
17 resolution of the board of trustees of each state university
18 involved in the issuance of the revenue bonds or debt.

19 (5) Revenue bonds or debt issued hereunder may be
20 secured on a parity with prior revenue bonds or debt issued by
21 or on behalf of one or more universities or a direct-support
22 organization.

23 (6) Capital outlay projects to be financed by revenue
24 bonds or debt are limited to those approved by the Legislature
25 either through approval of the specific project or general
26 approval of the type or category of capital outlay project.

27 (7)(a) As required pursuant to s. 11(d), Art. VII of
28 the State Constitution and subsection (6), the Legislature
29 hereby approves those capital outlay projects which meet the
30 following requirements:

31 1. The project is located on a campus of a state

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1 university or on land leased to the state university or land
2 that is used for activities relating to the state university.

3 2. The project is included in the master plan of the
4 state university or is for facilities not required to be in a
5 state university's master plan.

6 3. The project is approved by the Board of Governors
7 as being consistent with the strategic plan of the state
8 university and the programs offered by the state university.

9 4. The project is for purposes relating to housing,
10 transportation, health care, research or research-related
11 activities, food service, or retail sales of the state
12 university.

13 (b) Capital outlay projects for the acquisition of
14 equipment or software are also approved for purposes of
15 subsection (6) to the extent that the overall term of the
16 financing, including any extension, renewal, or refinancings
17 thereof, does not exceed 5 years or the estimated useful life
18 of the equipment or software, whichever is shorter.

19 (8) Notwithstanding any other law, the Board of
20 Governors, each state university, and any direct-support
21 organization must comply with the provisions of this section
22 to issue or enter into agreements for the issuance of revenue
23 bonds or debt.

24 (9) The Board of Governors may adopt such rules or
25 policies as may be necessary or desirable to carry out all of
26 the requirements of this section and may do all things
27 necessary or desirable to carry out the powers granted in this
28 section. Such rules or policies may include categories of
29 debt, other than revenue bonds, which may be issued without
30 the Board of Governors' approval of the specific issuance,
31 provided the issuance complies with any terms, conditions, or

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1 requirements included in such policy and laws governing the
2 imposition of fees and laws requiring specific authority to
3 pledge revenues to secure debt.

4 (10) Any legal commitments, contracts, or other
5 obligations relating to the financing of capital outlay
6 projects, which were lawfully entered into prior to July 1,
7 2006, shall remain in full force and effect. Any such legal
8 commitment, contract, or other obligation may be amended
9 without compliance with this section but only to the extent
10 that such amendment does not extend the term of the underlying
11 obligation or increase the financial obligation of the Board
12 of Governors, a state university, or a direct-support
13 organization.

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15 (Redesignate subsequent sections.)

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

19 And the title is amended as follows:

20 On page 10, line 20, following the semicolon
21
22 insert:
23 creating s. 1010.62, F.S., relating to revenue
24 bonds and debt for state universities;
25 providing definitions; authorizing the Board of
26 Governors to request the issuance of revenue
27 bonds; providing a process; requiring the Board
28 of Governors' approval for a state university
29 or direct-support organization to issue debt;
30 providing guidelines; providing for rules and
31 policies of the Board of Governors; providing a

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1 grandfather provision relating to certain
2 obligations;

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