

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 573 Health Facilities

SPONSOR(S): O'Toole and others

TIED BILLS: **IDEN./SIM. BILLS:** CS/SB 620

	REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1)	<u>Elder & Family Services Policy Committee</u>	<u></u>	<u>Ciccione</u>	<u>Ciccione</u>
2)	<u>Health Care Regulation Policy Committee</u>	<u></u>	<u></u>	<u></u>
3)	<u>Health & Family Services Policy Council</u>	<u></u>	<u></u>	<u></u>
4)	<u>Finance & Tax Council</u>	<u></u>	<u></u>	<u></u>
5)	<u></u>	<u></u>	<u></u>	<u></u>

SUMMARY ANALYSIS

House Bill 573 amends section 154.205, F.S., relating to health facilities. The bill expands the definition of a "health facility" to include any facility that provides independent and assisted living, dementia care, and hospice services; and related facilities for the elderly. The bill allows these types of facilities to be eligible to access financing through debt (bonds) issued by a health facility authority.

The bill has no direct fiscal impact on state funds.

The bill provides an effective date of upon the bill becoming a law.

HOUSE PRINCIPLES

Members are encouraged to evaluate proposed legislation in light of the following guiding principles of the House of Representatives

- Balance the state budget.
- Create a legal and regulatory environment that fosters economic growth and job creation.
- Lower the tax burden on families and businesses.
- Reverse or restrain the growth of government.
- Promote public safety.
- Promote educational accountability, excellence, and choice.
- Foster respect for the family and for innocent human life.
- Protect Florida's natural beauty.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation:

Background: In 1974, the Health Facilities Authorities Law¹ was enacted to assist health facilities within each county or municipality with additional means and assistance to develop and maintain healthcare related facilities and services as determined to be needed by the community. A health facility² means any not-for-profit private corporation authorized by law to provide:

- Hospital or nursing home care services in accordance with ch. 395, F.S., relating to hospital licensing and regulation or ch. 400, F.S., relating to nursing home licensing and regulation;
- Life care services in accordance with ch. 651, F.S., relating to continuing care contracts; and
- Facilities licensed under ch. 393, F.S., relating to development disabilities, and ch. 394, F.S., relating to mental health.

Section 154.205(2), F.S., provides the definition of an "authority" or "health facility authority" as a public corporation created by s. 154.207, F.S.; or any board, body, commission, or department of a county or municipality succeeding to the principal functions of the public corporation or to whom the powers authorized by the law are given by the local agency. Current law provides that a local agency may create a health facility authority if the governing body³ of the local agency determines there is a need for an authority by adopting an ordinance or resolution. The governing body is required to appoint five persons, who must be residents of the local agency and as members, to serve 4-year staggered terms. The authority annually elects one of its members as chair and one as vice chair. Authority members are uncompensated; however they are paid for necessary expenses incurred while performing their assigned duties. There are currently 32 health facility authorities in the state.⁴

Section 154.207(9), F.S., provides that any authority member who is employed by, or receives income from a health facility under consideration by the authority may not vote on any matter related to that facility. All meetings of the authority, and its records, books, documents and papers are open and available to the public in accordance with the Public Meetings Law in s. 286.011, F.S.⁵

¹ Part III of ch. 154, F.S.

² s. 154.215(8), F.S.

³ The governing body means the board, commission, or other governing body in which the general legislative powers of the local agency are vested. See s. 154.205(7), F.S.

⁴ Official List of Special Districts Online, maintained by the Florida Department of Community Affairs, see <http://www.floridaspecialdistricts.org/OfficialList/criteria.cfm> (last visited on February 22, 2009)

⁵ s. 154.207(7), F.S.

Purpose of the Authority: Section 154.209, F.S., provides that the purpose of the health facility authority is to assist health facilities in the acquisition, construction, financing, and refinancing of projects in any incorporated or unincorporated area within the geographical limits of the local agency. If the authority finds that there will be a benefit or cost savings to a health facility located within its jurisdiction, the authority may issue bonds for the health facility to finance projects for the health facility or for another not-for-profit corporation under common control with that health facility that is located outside the geographical limits of the local agency or outside the state.⁶

Section 154.205(10), F.S., defines a health facility project as any structure, facility, machinery, equipment, or other property suitable for use by a health facility in connection with its operations or proposed operations, including without limitation:

- Real property;
- A clinic, computer facility, dining hall, firefighting facility, fire prevention facility, food service and preparation facility, health care facility, long-term care facility, facility, hospital, interns' residence, laboratory, laundry, maintenance facility, nurses' residence; nursing home, nursing school, office, parking area, pharmacy, recreational facility, research facility, storage facility, utility, or X-ray facility, or any combination of these; and
- Other structures or facilities related, required, or useful for health care purposes, research, or the operation of a health facility, including facilities or structures essential or convenient for the orderly conduct of the health facility and other similar items necessary or convenient for the operation of a particular facility or structure in the manner for which its use is intended; excluding fuel, supplies, or other items customarily charged at current operating expenses.

Powers of the Authority: To achieve its purpose, the authority's powers include the authority to:⁷

- Sue and be sued;
- Purchase, lease, receive by gift or otherwise, or obtain options for the acquisition of, any real or personal property for the acquisition, construction, operation, or maintenance of any project;
- Make and execute agreements of lease, contracts, deeds, mortgages, notes, and other instruments necessary or convenient in the exercise of its powers and functions;
- Sell, lease, exchange, mortgage, transfer, or otherwise dispose of, or to grant options for any such puposes with respect to any project, any real or personal property or interest therein;
- Pledge or assign any money, rents, charges, fees, or other revenues and any proceeds derived from sales of property, insurance, or condemnation awards;
- Issue bonds for the purpose of providing funds to pay all or any part of the cost of any project and to issue refunding bonds;
- Employ consulting engineers, architects, surveyors, attorneys, accountants, financial experts, and such other employees and agents as may be necessary and to fix their compensation;
- Issue special obligation revenue bonds for the purpose of establishing and maintaining the self-insurance pool and related reserve funds;
- Participate in and issue bonds and other forms of indebtedness to establish and maintain an accounts receivable program on behalf of a health facility or group of health facilities;
- Issue revenue bonds for the purpose of paying all or any part of the cost of any project or for acquiring existing or completed health facilities projects and negotiable bond anticipation notes payable out of revenue derived by the authority from the sale, operation, or leasing of any project.

Revenue bonds issued by an authority under the Law are not a debt, liability, obligation, or a pledge of the faith and credit of the local agency, the state, or any political subdivision but are payable solely from the revenues of the project.⁸

⁶ s. 154.247, F.S.

⁷ s. 154.209, F.S.

⁸ s. 154.223, F.S.

Facilities included in the expanded definition of a “health facility” are:

Assisted Living Facilities (ALF) are residential care facilities that provide housing, meals, personal care, and supportive services to elders and disabled adults who are unable to live independently. The facilities are licensed and regulated by the Agency for Health Care Administration (AHCA) under part II of chapter 408, F.S., part I of chapter 429, F.S., and chapter 58A-14, F.A.C., and are intended to be a less costly alternative to more restrictive institutional settings for individuals who do not require 24-hour nursing supervision. Generally, ALFs provide supervision, assistance with personal and supportive services, and assistance with administration of medications. ALFs range in size from less than 5 residents to several hundred. Currently, there are 2,707 ALFs serving approximately 78,000 residents.⁹

Adult Family-Care Homes are private residences that are licensed to provide a full-time family-type living arrangement in a private home to frail elderly and disabled adults who are unrelated to each other and who are unable to live independently. The adult family-care home provider must live in the home. These facilities are licensed and regulated by AHCA under part II of chapter 408, F.S., part II of chapter 429, F.S., chapter 435, F.S., and chapter 58A-14, F.A.C. Currently, there are 503 licensed facilities serving approximately 2,200 residents.

Adult Day Care Centers are facilities that provide programs and services for adults (age 18 years of age or older) who need a protective setting during the day. Program participants live in their own homes, assisted living facilities or adult family care homes and come to the day care center during the day and receive basic services such as social and health activities, self-care training; rest, and nutritional services and optional services such as speech, occupational and physical therapy. These facilities are licensed and regulated by AHCA under part II of chapter 408, F.S., part III of chapter 429, F.S., and chapter 58A-6, F.A.C. Currently, there are 159 facilities serving approximately 7,757 residents.

Continuing Care Retirement Communities (CCRC) are entities that provide varying levels of care to residents who are generally 55 years of age and older. CCRCs provide a continuum of care to accommodate a resident’s changing needs and available services may range from independent live-in houses or apartments, to assisted living facilities, to skilled nursing facilities. CCRCs operate under a certificate of authority issued under chapter 651, F.S., relating to continuing care contracts as a part of the Florida Insurance Code. Healthcare services and facilities within a CCRC are regulated by AHCA under chapter laws specific to those services or facilities. Currently, there are 75 licenses issued to CCRCs serving approximately 30,000 residents.¹⁰

Hospices are entities that provide end-of-life services in private homes, assisted living facilities, adult family care homes, hospitals, or hospice facilities for terminally ill patients. Hospices are licensed and regulated by AHCA under part IV of chapter 400, F.S., and chapter 58A-2, F.A.C. Currently, there are 41 licensed hospice facilities in the state.

Effect of the Bill:

House Bill 573 would expand the definition of a “health facility” under part III of chapter 154, F.S., to allow additional types of health facilities to be eligible to receive assistance from a health facility authority.

The bill would allow facilities that provide independent and assisted living, dementia care, and hospice services; and related facilities for the elderly to be eligible to access financing through debt (bonds) issued by the health facility authority. The effect of this bill should be increased private sector development of health-related services and housing options primarily for seniors in Florida.

B. SECTION DIRECTORY:

Section 1. Amends s. 154.205(8), F.S., relating to the definition of a “health facility.”

⁹ License and facility data relating to Assisted Living Facilities, Adult Family-Care Homes, Adult Day Care Centers, and Hospices received from the Agency for Health Care Administration, August 2008.

¹⁰ License and resident data received from the Department of Financial Services, August 2008.

Section 2. Provides an effective date of upon the bill becoming a law.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

This bill provides health facility authorities the option to assist private non-for-profit entities with the funding of healthcare related services and housing options, primarily for the elderly. This bill should facilitate private sector development of such senior living and other not-for-profit health facilities as the demand for such services increases.

D. FISCAL COMMENTS:

The bill could alleviate demands placed on government to address healthcare related services and housing needs of the elderly.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not appear to: require counties or municipalities to spend funds or take an action requiring the expenditure of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of a state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES