

**HOUSE OF REPRESENTATIVES STAFF ANALYSIS**

**BILL #:** CS/HB 573 Health Facilities

**SPONSOR(S):** O'Toole and others

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

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	<b>REFERENCE</b>	<b>ACTION</b>	<b>ANALYST</b>	<b>STAFF DIRECTOR</b>
1)	<u>Elder &amp; Family Services Policy Committee</u>	<u>10 Y, 0 N, As CS</u>	<u>Ciccione</u>	<u>Ciccione</u>
2)	<u>Health Care Regulation Policy Committee</u>	<u></u>	<u>Calamas</u>	<u>Calamas</u>
3)	<u>Health &amp; Family Services Policy Council</u>	<u></u>	<u></u>	<u></u>
4)	<u>Finance &amp; Tax Council</u>	<u></u>	<u></u>	<u></u>
5)	<u></u>	<u></u>	<u></u>	<u></u>

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**SUMMARY ANALYSIS**

CS/HB 573 expands the definition of "health facility" within part III of ch. 154, F. S., related to health facility authorities, to include facilities that provide independent living, assisted living, dementia care, or hospice services. 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 takes effect upon 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 Law<sup>1</sup> was enacted to assist health facilities within each county or municipality with additional means and assistance in the development and maintenance of health-care related facilities and services as determined to be needed by the community. A health facility<sup>2</sup> means any non-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.

A Health Facilities Authority is 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 and responsibilities 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 body<sup>3</sup> 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 the duties of the authority. There are currently 32 Health Facilities Authorities operating in 23 counties in Florida.<sup>4</sup>

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.<sup>5</sup>

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<sup>1</sup> Part III of ch. 154, F.S.

<sup>2</sup> s. 154.215(8), F.S.

<sup>3</sup> 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.

<sup>4</sup> 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)

<sup>5</sup> 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 a 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.<sup>6</sup>

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 is authorized to:<sup>7</sup>

- 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;
- Construct, acquire, own lease, repair, maintain, extend, expand, improve rehabilitate, renovate, furnish, and equip projects and to pay all or part of these costs from the proceeds of bonds of the authority or from any other funds made available to the authority for such purpose;
- 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 preoperty, insurance, or condemnation awards;
- Fix, charge, and collect rents, fees, and charges for the use of any project;
- 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;
- Acquire existing projects, reimburse any health facility for the cost of such project, and refund outstanding obligations, mortgages, or advances issued, made, or given by a health facility for the cost of the project;
- Mortgage any project and site for the benefit of the holders of the bonds issued to finance that project;
- Participate in and to issue bonds for the purpose of establishing and maintaining a self-insurance pool, as provided under the state Insurance code, on behalf of a health facility or a group of health facilities in order to resolve issues related to an act or omission of the health facility, its employees, or agents in the performance of health care or health-care related functions;
- Issue special obligation revenue bonds for the purpose of establishing and maintaining the self-insurance pool and related reserve funds;

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<sup>6</sup> s. 154.247, F.S.

<sup>7</sup> s. 154.209, F.S.

- Participate in and issue bonds and other forms of indebtedness for the purpose of establishing and maintaining an accounts receivable program on behalf of a health facility or group of health facilities;
- Issue and renew its negotiable notes;
- Issue revenue bonds for the purpose of paying all or any part of the cost of 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.<sup>8</sup>

#### Licensed Facilities:

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.<sup>9</sup>

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., 435, F.S., and Chapter 58A-14, F.A.C. Currently, there 503 licensed facilities serving approximately 2,200 residents

Adult Day Care Centers are for 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 and approximately 7,757 beds.

Continuing Care Retirement communities 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. CCRS 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. Health care services and facilities within a CCRC are regulated by AHCA under chapter laws specific to the services or facilities. Currently, there are 75 licenses issued to CCRCs serving approximately 30,000 residents.<sup>10</sup>

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.

<sup>8</sup> s. 154.223, F.S.

<sup>9</sup> 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.

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

Effect of the Bill:

CS/HB 573 expands the definition of a "health facility" under Chapter 154, F.S., for the purpose of allowing additional types of health facilities to receive assistance from a health facilities authority.

The bill clarifies the list of current health facilities--hospital services, nursing home care services, life care services and services for the developmentally disabled and the mentally ill--and provides additional facilities such as independent living, assisted living, dementia care, or hospice services to be eligible to access financing through debt (bonds) issued by a health facility authority.

This bill should facilitate the private sector development of senior health-related services and housing options to address the increased projected demand for such services in Florida.

**B. SECTION DIRECTORY:**

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

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 not-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. increases.

**D. FISCAL COMMENTS:**

None.

### **III. COMMENTS**

#### **A. CONSTITUTIONAL ISSUES:**

##### **1. Applicability of Municipality/County Mandates Provision:**

The provisions of this bill have no impact on municipalities and counties under the requirements of Article VII, Section 18 of the Florida Constitution.

##### **2. Other:**

None.

#### **B. RULE-MAKING AUTHORITY:**

None.

#### **C. DRAFTING ISSUES OR OTHER COMMENTS:**

None.

### **IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES**

On March 3, 2009, the Elder and Family Services Policy Committee adopted one amendment by the bill sponsor that expands the definition of a "health facility" under chapter 154, F.S., for the purpose of allowing additional types of health facilities to receive assistance from a health facilities authority.

The bill was reported favorably as a Committee Substitute. The analysis reflects the Committee Substitute.