

A bill to be entitled

An act relating to educational facilities financing; renaming chapter 243, F.S., and part II thereof to conform to changes made by the act; amending ss. 243.50, 243.51, 243.52, 243.53, 243.54, 243.59, 243.66, 243.67, and 243.73, F.S.; revising provisions relating to the financing of independent nonprofit higher educational facilities to include financing for private nonprofit elementary, middle, and secondary schools meeting certain criteria; revising the short title and findings to conform; revising definitions; renaming the facilities financing authority to conform; revising powers of the authority, including the issuance and payment of bonds, to conform; revising the date for submission of an annual financial report by the authority to the Governor and Legislature; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Chapter 243, Florida Statutes, entitled "Higher Educational Facilities Bonds," is renamed "Educational Facilities Bonds." Part II of that chapter, entitled "Higher Educational Facilities Financing," is renamed "Educational Facilities Financing."

Section 2. Section 243.50, Florida Statutes, is amended to

27 read:

28 243.50 Short title.—Sections 243.50-243.77 may be cited as  
 29 the "~~Higher~~ Educational Facilities Financing Act."

30 Section 3. Section 243.51, Florida Statutes, is amended to  
 31 read:

32 243.51 Findings and declarations.—It is the purpose of ss.  
 33 243.50-243.77 to provide a measure of assistance and an  
 34 alternative method enabling private educational institutions in  
 35 ~~of higher education~~ of this state to provide the facilities and  
 36 structures that they need and to enable those institutions to  
 37 coordinate their budgetary needs with the timing of receipt of  
 38 tuition revenues.

39 Section 4. Subsections (3) through (8) of section 243.52,  
 40 Florida Statutes, are amended to read:

41 243.52 Definitions.—As used in ss. 243.50-243.77, the  
 42 term:

43 (3) "Project" means a structure suitable for use as a  
 44 dormitory or other housing facility, dining hall, student union,  
 45 administration building, academic building, library, laboratory,  
 46 research facility, classroom, athletic facility, health care  
 47 facility, or maintenance, storage, or utility facility, and  
 48 other structures or facilities related thereto, or required  
 49 thereto, or required or useful for the instruction of students,  
 50 or the conducting of research, or the operation of an  
 51 educational institution, including parking and other facilities  
 52 or structures, essential or convenient for the orderly conduct

53 of such institution and includes equipment and machinery and  
54 other similar items necessary or convenient for the operation of  
55 a particular facility or structure in the manner for which its  
56 use is intended but does not include such items as books, fuel,  
57 supplies, or other items that are customarily deemed to result  
58 in a current operating charge. The term also ~~dormitory, student~~  
59 ~~service facility, parking facility, administration building,~~  
60 ~~academic building, or library~~ and includes a loan in  
61 anticipation of tuition revenues by an educational institution  
62 ~~of higher education,~~ as defined in subsection (6).

63 (4) "Cost," as applied to a project or any portion thereof  
64 financed under ss. 243.50-243.77, includes all or any part of  
65 the cost of construction and acquisition of all lands,  
66 structures, real property, rights, rights-of-way, franchises,  
67 easements, and interests acquired or used for a project; the  
68 cost of demolishing or removing any buildings or structures on  
69 land so acquired, including the cost of acquiring any lands to  
70 which the buildings or structures may be removed; the cost of  
71 all machinery and equipment, financing charges, and interest  
72 before, during, and for a period of 30 months after completion  
73 of the construction; provisions for working capital, reserves  
74 for principal, interest, and rebate; provisions for extensions,  
75 enlargements, additions, and improvements; the cost of  
76 engineering, financial, and legal services; the cost of plans,  
77 specifications, studies, surveys, estimates of costs and  
78 revenues, administrative expenses, and expenses necessary to

79 determining the feasibility or practicability of constructing  
 80 the project; and other expenses necessary for constructing and  
 81 acquiring the project, financing the construction, and placing  
 82 the project in operation. In the case of a loan in anticipation  
 83 of tuition revenues, the term "cost" means the amount of the  
 84 loan in anticipation of revenues which does not exceed the  
 85 amount of tuition revenues anticipated to be received by the  
 86 borrowing institution ~~of higher education~~ in the 1-year period  
 87 following the date of the loan, plus costs related to the  
 88 issuance of the loan, or the amount of the bonds, the proceeds  
 89 of which fund the loans and any related cost of debt service,  
 90 reserve funds, and rebate associated therewith.

91 (5) "Bond" or "revenue bond" means a revenue bond of the  
 92 authority issued under ss. 243.50-243.77, including a revenue  
 93 refunding bond, notwithstanding that it may be secured by  
 94 mortgage or the full faith and credit of a participating  
 95 institution ~~of higher education~~ or any other lawfully pledged  
 96 security of a participating institution ~~of higher education~~.

97 (6) "Educational institution ~~of higher education~~" means:

98 (a) An independent nonprofit college or university that  
 99 ~~which~~ is located in and chartered by the state; that ~~which~~ is  
 100 accredited by the Commission on Colleges of the Southern  
 101 Association of Colleges and Schools; that ~~which~~ grants  
 102 baccalaureate degrees; and that ~~which~~ is not a state university  
 103 or Florida College System institution ~~state community college~~.

104 (b) A private nonprofit elementary, middle, or secondary

105 school that is located in and chartered by the state and  
 106 accredited by the Southern Association of Colleges and Schools.

107 (7) "Participating institution" means an educational  
 108 ~~institution of higher education,~~ as defined in subsection (6),  
 109 that undertakes the financing and construction or acquisition of  
 110 a project or undertakes the refunding or refinancing of  
 111 obligations or of a mortgage or of advances as provided in and  
 112 permitted by ss. 243.50-243.77.

113 (8) "Loan in anticipation of tuition revenues" means a  
 114 loan to a participating ~~an institution of higher education~~ under  
 115 circumstances in which tuition revenues anticipated to be  
 116 received by the institution in any budget year are estimated to  
 117 be insufficient at any time during the budget year to pay the  
 118 operating expenses or other obligations of the institution in  
 119 accordance with the budget of the institution.

120 Section 5. Subsections (1) and (2) of section 243.53,  
 121 Florida Statutes, are amended to read:

122 243.53 Creation of ~~Higher~~ Educational Facilities Financing  
 123 Authority.—

124 (1) There is created a public body corporate and politic  
 125 to be known as the ~~Higher~~ Educational Facilities Financing  
 126 Authority. The authority is constituted as a public  
 127 instrumentality, and the exercise by the authority of the powers  
 128 conferred by ss. 243.50-243.77 is considered to be the  
 129 performance of an essential public function. Chapters 119 and  
 130 286 apply to the authority.

131           (2) The authority shall consist of five members to be  
 132 appointed by the Governor, subject to confirmation by the  
 133 Senate. One member shall be a trustee, director, officer, or  
 134 employee of a participating ~~an~~ institution ~~of higher education~~.  
 135 Of the members first appointed, one shall serve for 1 year, one  
 136 for 2 years, one for 3 years, one for 4 years, and one for 5  
 137 years, and in each case until his or her successor is appointed  
 138 and has qualified. Thereafter, the Governor shall appoint for  
 139 terms of 5 years each a member or members to succeed those whose  
 140 terms expire. The Governor shall fill any vacancy for an  
 141 unexpired term. A member of the authority is eligible for  
 142 reappointment. Any member of the authority may be removed by the  
 143 Governor for misfeasance, malfeasance, or willful neglect of  
 144 duty. Each member of the authority before entering upon his or  
 145 her duties shall take and subscribe to the oath or affirmation  
 146 required by the State Constitution. A record of each oath must  
 147 be filed in the office of the Department of State and with the  
 148 authority.

149           Section 6. Section 243.54, Florida Statutes, is amended to  
 150 read:

151           243.54 Powers of the authority.—The purpose of the  
 152 authority is to assist participating institutions ~~of higher~~  
 153 ~~education~~ in constructing, financing, and refinancing projects  
 154 throughout the state, and, ~~for~~ for this purpose, the authority may:

155           (1) Exercise all powers granted to corporations under the  
 156 Florida Business Corporation Act, chapter 607.

157 (2) Have perpetual succession as a body politic and  
158 corporate and adopt bylaws for the regulation of its affairs and  
159 the conduct of its business.

160 (3) Adopt an official seal and alter the same at its  
161 pleasure.

162 (4) Maintain an office at any place in the state that it  
163 may designate.

164 (5) Sue and be sued in its own name, and plead and be  
165 impleaded.

166 (6) Make and execute financing agreements, leases, as  
167 lessee or as lessor, contracts, deeds, and other instruments  
168 necessary or convenient in the exercise of the powers and  
169 functions of the authority, including contracts with persons,  
170 firms, corporations, federal and state agencies, and other  
171 authorities, which state agencies and other authorities are  
172 authorized to enter into contracts and otherwise cooperate with  
173 the authority to facilitate the financing, construction,  
174 leasing, or sale of any project or the institution of any  
175 program; engage in sale-leaseback, lease-purchase, lease-  
176 leaseback, or other undertakings and provide for the sale of  
177 certificates of participation incident thereto; and enter into  
178 interlocal agreements in the manner provided in s. 163.01.

179 (7) Determine the location and character of any project to  
180 be financed under ss. 243.50-243.77 and may:

181 (a) Construct, reconstruct, maintain, repair, and lease  
182 the project as lessee or lessor.

183 (b) Enter into contracts for any of those purposes.

184 (c) Designate a participating institution as its agent to  
 185 determine the location and character of a project undertaken by  
 186 a participating institution under ss. 243.50-243.77 and, as the  
 187 agent of the authority, construct, reconstruct, maintain,  
 188 repair, own, and lease the project as lessee or lessor.

189 (8) Issue bonds, bond anticipation notes, and other  
 190 obligations of the authority for any of its corporate purposes,  
 191 including the provision of funds to pay all or any part of the  
 192 cost of any project and to fund or refund the cost of any  
 193 project as provided in ss. 243.50-243.77.

194 (9) Establish rules for the use of a project or any  
 195 portion thereof and designate a participating institution as its  
 196 agent to establish rules for the use of a project undertaken by  
 197 the participating institution.

198 (10) Employ consulting engineers, architects, attorneys,  
 199 accountants, construction and financial experts,  
 200 superintendents, managers, and other employees and agents as  
 201 necessary, and fix their compensation.

202 (11) Receive and accept from any public agency loans or  
 203 grants for or in aid of the construction of a project or any  
 204 portion thereof, and receive and accept loans, grants, aid, or  
 205 contributions from any source of money, property, labor, or  
 206 other things of value, to be held, used, and applied only for  
 207 the purposes for which the loans, grants, aid, and contributions  
 208 are made.



209 (12) Mortgage any project and the site thereof for the  
 210 benefit of the holders of revenue bonds issued to finance  
 211 projects or those providing credit for that purpose.

212 (13) Make loans to any participating institution for the  
 213 cost of a project, including a loan in anticipation of tuition  
 214 revenues, in accordance with an agreement between the authority  
 215 and the participating institution. However, a loan may not  
 216 exceed the total cost of the project as determined by the  
 217 participating institution and approved by the authority.

218 (14) Make loans to a participating institution to refund  
 219 outstanding obligations, mortgages, or advances issued, made, or  
 220 given by the participating institution for the cost of a  
 221 project.

222 (15) Charge to and equitably apportion among participating  
 223 institutions its administrative costs and expenses incurred in  
 224 the exercise of the powers and duties conferred by ss. 243.50-  
 225 243.77.

226 (16) Contract with an entity as its agent to assist the  
 227 authority in screening applications of participating  
 228 institutions ~~of higher education~~ for loans under ss. 243.50-  
 229 243.77 and receive any recommendations the entity may make.

230 (17) Do all things necessary or convenient to carry out  
 231 the purposes of ss. 243.50-243.77.

232 Section 7. Section 243.59, Florida Statutes, is amended to  
 233 read:

234 243.59 Approval required to issue bonds.—The authority is

235 created for the purpose of promoting private nonprofit ~~higher~~  
 236 education and issuing bonds on behalf of the state, and the  
 237 Governor may approve any bonds issued by the authority which  
 238 require approval under federal law.

239 Section 8. Section 243.66, Florida Statutes, is amended to  
 240 read:

241 243.66 Payment of bonds.—Revenue bonds issued under ss.  
 242 243.50–243.77 are not a debt or liability of the authority, any  
 243 municipality, the state, or any political subdivision thereof,  
 244 and are not a pledge of the faith and credit of the state, the  
 245 authority, any municipality, or any political subdivision  
 246 thereof, but are payable solely from revenues of the authority  
 247 pertaining to the project relating to the issue; payments by  
 248 participating institutions ~~of higher education~~, banks, insurance  
 249 companies, or others under letters of credit or purchase  
 250 agreements; investment earnings from funds or accounts  
 251 maintained under the bond resolution; insurance proceeds; loan  
 252 funding deposits; proceeds of sales of education loans; proceeds  
 253 of refunding obligations; and fees, charges, and other revenues  
 254 of the authority from the project. All revenue bonds must  
 255 contain on the face thereof a statement to the effect that  
 256 neither the authority nor any municipality, the state, or any  
 257 political subdivision thereof is obligated to pay the bond or  
 258 the interest thereon except from revenues of the project or the  
 259 portion thereof for which they are issued, and that neither the  
 260 faith and credit nor the taxing power of the authority, any

261 municipality, the state, or any political subdivision thereof is  
 262 pledged to the payment of the principal of or the interest on  
 263 the bonds. The issuance of revenue bonds under ss. 243.50-243.77  
 264 may not directly, indirectly, or contingently obligate the  
 265 authority, any municipality, the state, or any political  
 266 subdivision thereof to levy or to pledge any form of taxation  
 267 therefor or to make any appropriation for their payment.

268 Section 9. Subsection (3) of section 243.67, Florida  
 269 Statutes, is amended to read:

270 243.67 Rates, rents, fees, and charges.—

271 (3) The use and disposition of moneys to the credit of a  
 272 sinking or other similar fund must be subject to the resolution  
 273 authorizing the issuance of the bonds or of the trust agreement.  
 274 Except as otherwise provided in the resolution or the trust  
 275 agreement, the sinking or other similar fund must be a fund for  
 276 all revenue bonds issued to finance projects at a particular  
 277 participating institution ~~of higher education~~ without  
 278 distinction or priority of one over another. However, the  
 279 authority in any resolution or trust agreement may provide that  
 280 the sinking or other similar fund be the fund for a particular  
 281 project at a participating institution and for payment of the  
 282 revenue bonds issued to finance that project, and may,  
 283 additionally, permit and provide for the issuance of revenue  
 284 bonds having a subordinate lien in respect of the security  
 285 authorized to other revenue bonds of the authority, and, in such  
 286 case, the authority may create separate sinking or other similar

287 funds in respect of the subordinate lien bonds.

288 Section 10. Subsection (1) of section 243.73, Florida  
 289 Statutes, is amended to read:

290 243.73 Reports; audits.—

291 (1) The authority shall submit to the Governor and the  
 292 presiding officers of each house of the Legislature, within 4 ~~2~~  
 293 months after the end of its fiscal year, a complete and detailed  
 294 report setting forth:

295 (a) Its operations and accomplishments.

296 (b) Its receipts and expenditures during its fiscal year  
 297 in accordance with the categories or classifications established  
 298 by the authority for its operating and capital outlay purposes.

299 (c) Its assets and liabilities at the end of its fiscal  
 300 year and the status of reserve, special, or other funds.

301 (d) A schedule of its bonds outstanding at the end of its  
 302 fiscal year, together with a statement of the principal amounts  
 303 of bonds issued and redeemed during the fiscal year.

304 (e) Any other information the authority deems appropriate.

305 Section 11. This act shall take effect July 1, 2014.