

By Senator Montford

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1                   A bill to be entitled  
2           An act relating to educational facilities financing;  
3           renaming chapter 243, F.S., and part II thereof to  
4           conform to changes made by the act; amending ss.  
5           243.50, 243.51, 243.52, 243.53, 243.54, 243.59,  
6           243.66, 243.67, and 243.73, F.S.; revising provisions  
7           relating to the financing of independent nonprofit  
8           higher educational facilities to include financing for  
9           private nonprofit elementary, middle, and secondary  
10          schools meeting certain criteria; revising the short  
11          title and findings to conform; revising definitions;  
12          renaming the facilities financing authority to  
13          conform; revising powers of the authority, including  
14          the issuance and payment of bonds, to conform;  
15          revising the date for submission of an annual  
16          financial report by the authority to the Governor and  
17          Legislature; providing an effective date.

18  
19 Be It Enacted by the Legislature of the State of Florida:

20  
21           Section 1. Chapter 243, Florida Statutes, entitled "Higher  
22 Educational Facilities Bonds," is renamed "Educational  
23 Facilities Bonds." Part II of that chapter, entitled "Higher  
24 Educational Facilities Financing," is renamed "Educational  
25 Facilities Financing."

26           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."

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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 term:

42 (3) "Project" means a structure suitable for use as a  
43 dormitory or other housing facility, dining hall, student union,  
44 administration building, academic building, library, laboratory,  
45 research facility, classroom, athletic facility, health care  
46 facility, or maintenance, storage, or utility facility, and  
47 other structures or facilities related thereto, or required  
48 thereto, or required or useful for the instruction of students,  
49 or the conducting of research, or the operation of an  
50 educational institution, including parking and other facilities  
51 or structures, essential or convenient for the orderly conduct  
52 of such institution and includes equipment and machinery and  
53 other similar items necessary or convenient for the operation of  
54 a particular facility or structure in the manner for which its  
55 use is intended but does not include such items as books, fuel,  
56 supplies, or other items that are customarily deemed to result  
57 in a current operating charge. The term also ~~dormitory, student~~  
58 service facility, parking facility, administration building,

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59 ~~academic building, or library~~ and includes a loan in  
60 anticipation of tuition revenues by an educational institution  
61 ~~of higher education~~, as defined in subsection (6).

62 (4) "Cost," as applied to a project or any portion thereof  
63 financed under ss. 243.50-243.77, includes all or any part of  
64 the cost of construction and acquisition of all lands,  
65 structures, real property, rights, rights-of-way, franchises,  
66 easements, and interests acquired or used for a project; the  
67 cost of demolishing or removing any buildings or structures on  
68 land so acquired, including the cost of acquiring any lands to  
69 which the buildings or structures may be removed; the cost of  
70 all machinery and equipment, financing charges, and interest  
71 before, during, and for a period of 30 months after completion  
72 of the construction; provisions for working capital, reserves  
73 for principal, interest, and rebate; provisions for extensions,  
74 enlargements, additions, and improvements; the cost of  
75 engineering, financial, and legal services; the cost of plans,  
76 specifications, studies, surveys, estimates of costs and  
77 revenues, administrative expenses, and expenses necessary to  
78 determining the feasibility or practicability of constructing  
79 the project; and other expenses necessary for constructing and  
80 acquiring the project, financing the construction, and placing  
81 the project in operation. In the case of a loan in anticipation  
82 of tuition revenues, the term "cost" means the amount of the  
83 loan in anticipation of revenues which does not exceed the  
84 amount of tuition revenues anticipated to be received by the  
85 borrowing educational institution ~~of higher education~~ in the 1-  
86 year period following the date of the loan, plus costs related  
87 to the issuance of the loan, or the amount of the bonds, the

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88 proceeds of which fund the loans and any related cost of debt  
89 service, reserve funds, and rebate associated therewith.

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

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

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

103 (b) A private nonprofit elementary, middle, or secondary  
104 school that is located in and chartered by the state and  
105 accredited by the Southern Association of Colleges and Schools.

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

112 (8) "Loan in anticipation of tuition revenues" means a loan  
113 to a participating ~~an institution of higher education~~ under  
114 circumstances in which tuition revenues anticipated to be  
115 received by the institution in any budget year are estimated to  
116 be insufficient at any time during the budget year to pay the

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117 operating expenses or other obligations of the institution in  
118 accordance with the budget of the institution.

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

121 243.53 Creation of ~~Higher~~ Educational Facilities Financing  
122 Authority.—

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

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

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146 be filed in the office of the Department of State and with the  
147 authority.

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

150 243.54 Powers of the authority.—The purpose of the  
151 authority is to assist participating institutions ~~of higher~~  
152 ~~education~~ in constructing, financing, and refinancing projects  
153 throughout the state, and,~~r~~ for this purpose, the authority may:

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

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

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

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

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

165 (6) Make and execute financing agreements, leases, as  
166 lessee or as lessor, contracts, deeds, and other instruments  
167 necessary or convenient in the exercise of the powers and  
168 functions of the authority, including contracts with persons,  
169 firms, corporations, federal and state agencies, and other  
170 authorities, which state agencies and other authorities are  
171 authorized to enter into contracts and otherwise cooperate with  
172 the authority to facilitate the financing, construction,  
173 leasing, or sale of any project or the institution of any  
174 program; engage in sale-leaseback, lease-purchase, lease-

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175 leaseback, or other undertakings and provide for the sale of  
176 certificates of participation incident thereto; and enter into  
177 interlocal agreements in the manner provided in s. 163.01.

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

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

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

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

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

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

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

201 (11) Receive and accept from any public agency loans or  
202 grants for or in aid of the construction of a project or any  
203 portion thereof, and receive and accept loans, grants, aid, or

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204 contributions from any source of money, property, labor, or  
205 other things of value, to be held, used, and applied only for  
206 the purposes for which the loans, grants, aid, and contributions  
207 are made.

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

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

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

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

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

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

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



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233           243.59 Approval required to issue bonds.—The authority is  
234 created for the purpose of promoting private nonprofit ~~higher~~  
235 education and issuing bonds on behalf of the state, and the  
236 Governor may approve any bonds issued by the authority which  
237 require approval under federal law.

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

240           243.66 Payment of bonds.—Revenue bonds issued under ss.  
241 243.50–243.77 are not a debt or liability of the authority, any  
242 municipality, the state, or any political subdivision thereof,  
243 and are not a pledge of the faith and credit of the state, the  
244 authority, any municipality, or any political subdivision  
245 thereof, but are payable solely from revenues of the authority  
246 pertaining to the project relating to the issue; payments by  
247 participating institutions ~~of higher education~~, banks, insurance  
248 companies, or others under letters of credit or purchase  
249 agreements; investment earnings from funds or accounts  
250 maintained under the bond resolution; insurance proceeds; loan  
251 funding deposits; proceeds of sales of education loans; proceeds  
252 of refunding obligations; and fees, charges, and other revenues  
253 of the authority from the project. All revenue bonds must  
254 contain on the face thereof a statement to the effect that  
255 neither the authority nor any municipality, the state, or any  
256 political subdivision thereof is obligated to pay the bond or  
257 the interest thereon except from revenues of the project or the  
258 portion thereof for which they are issued, and that neither the  
259 faith and credit nor the taxing power of the authority, any  
260 municipality, the state, or any political subdivision thereof is  
261 pledged to the payment of the principal of or the interest on

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

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

269 243.67 Rates, rents, fees, and charges.—

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

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

289 243.73 Reports; audits.—

290 (1) The authority shall submit to the Governor and the

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291 presiding officers of each house of the Legislature, within 4 ~~2~~  
292 months after the end of its fiscal year, a complete and detailed  
293 report setting forth:

294 (a) Its operations and accomplishments.

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

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

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

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

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