

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 461 Independent Nonprofit Higher Educational Facilities Financing

**SPONSOR(S):** Sullivan and others

**TIED BILLS:** **IDEN./SIM. BILLS:** SB 622

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Higher Education & Workforce Subcommittee	7 Y, 0 N	Banner	Sherry
2) Appropriations Committee	27 Y, 0 N	Hawkins	Leznoff
3) Education Committee	15 Y, 0 N	Banner	Mizereck

### SUMMARY ANALYSIS

The Higher Educational Facilities Financing Authority (authority) is a public corporation which assists eligible institutions of higher education in financing and refinancing educational facilities construction. Among other things, the authority may issue tax-exempt or taxable revenue bonds, which are privately financed and not secured by full faith and credit of the state. Financing acquired through the authority may be used for such construction projects as dormitories, parking and student service facilities, administration and academic buildings, libraries, and loans made in anticipation of tuition revenues.

Independent nonprofit colleges or universities which: are located in and chartered by the state of Florida; are accredited by the Southern Association of Colleges and Schools (SACS); grant baccalaureate degrees; and are not a state university or community college may participate in educational facilities construction financing through the authority. This includes all 31 institutions belonging to the Independent Colleges and Universities of Florida (ICUF).

The bill expands the types of projects that the authority may finance by adding:

- Costs for construction of dining halls, student unions, laboratories, research facilities, classrooms, athletic facilities, health care facilities, maintenance, storage, or utility facilities, and related facilities or structures required or useful for the instruction of students, research, or the operation of an educational institution (e.g., parking); and
- Certain purchases of equipment and machinery.

Books, fuel, supplies, or other items which are customarily deemed to be operating costs may not be financed.

The bill does not appear to have a fiscal impact on state or local governments.

The bill takes effect July 1, 2015.

# FULL ANALYSIS

## I. SUBSTANTIVE ANALYSIS

### A. EFFECT OF PROPOSED CHANGES:

#### **Present Situation**

The Higher Educational Facilities Financing Authority (authority) is a public corporation which assists eligible institutions of higher education in financing and refinancing educational facilities construction.<sup>1</sup> Participation in financing through the authority is limited to independent nonprofit colleges or universities which are located in and chartered by the state of Florida; are accredited by the Southern Association of Colleges and Schools (SACS); grant baccalaureate degrees; and are not a state university or community college.<sup>2</sup> This includes all 31 institutions belonging to the Independent Colleges and Universities of Florida (ICUF).<sup>3</sup>

Among other things, the authority may issue tax-exempt or taxable revenue bonds; acquire real estate; contract; and execute loans, leases, and other legal instruments.<sup>4</sup> Bonds issued by the authority are privately financed, are not secured by the full faith and credit of the state, and do not constitute an obligation of the state.<sup>5</sup> The authority may not enter into a financing agreement with a participating institution unless the institution demonstrates that it is financially responsible and capable of fulfilling its obligations under the agreement.<sup>6</sup>

The authority may only finance such projects as dormitories, parking and student service facilities, administration and academic buildings, libraries, and loans made in anticipation of tuition revenues.<sup>7</sup> Financing may be provided for project costs related to construction and land acquisition; machinery and equipment; financing charges and interest; provisions for working capital; reserves for principal, interest, and rebate; provisions for extensions, enlargements, additions, and improvements; engineering, financial, and legal services; and construction planning and cost estimating.<sup>8</sup>

Currently, the authority and participating institutions are exempt from taxes or assessments related to a project or any property acquired for a project and any tax on income from those projects. Any bonds issued by the authority, any security for the bonds, the transfer of the bonds, and the income from the bonds (including profit on their sale) and notes, mortgages, security agreements, letters of credit, or other instruments are also exempt from taxation of any kind by the state or any local unit, political subdivision, or other instrumentality of the state. This tax exemption does not apply to income taxes imposed on corporations under ch. 220, F.S.<sup>9</sup>

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<sup>1</sup> Part II, ch. 243, F.S.

<sup>2</sup> Section 243.52(6), F.S. The law defines the terms “institution of higher education” and “participating institution” to be synonymous. *See* s. 243.52(6) and (7), F.S.

<sup>3</sup> *See* Independent Colleges and Universities of Florida, *About Us*, <http://www.icuf.org/newdevelopment/about-icuf/> (last visited Feb. 5, 2015). ICUF institutions include Adventist University of Health Sciences, Ave Maria University, Barry University, Beacon College, Bethune-Cookman University, Clearwater Christian College, Eckerd College, Edward Waters College, Embry-Riddle Aeronautical University, Everglades University, Flagler College, Florida College, Florida Institute of Technology, Florida Memorial University, Florida Southern College, Hodges University, Jacksonville University, Keiser University, Lynn University, Nova Southeastern University, Palm Beach Atlantic University, Ringling College of Art and Design, Rollins College, St. Leo University, Southeastern University, St. Thomas University, Stetson University, The University of Tampa, University of Miami, Warner University, and Webber International University. Independent Colleges and Universities of Florida, *School Websites*, <http://www.icuf.org/newdevelopment/schools/> (last visited Feb. 5, 2015).

<sup>4</sup> Section 243.54, F.S.

<sup>5</sup> Section 243.64, F.S.; Documentation provided by Independent Colleges and Universities of Florida (Feb. 4, 2015).

<sup>6</sup> Section 243.58(2), F.S.

<sup>7</sup> Section 243.52(3), F.S.

<sup>8</sup> Section 243.52(4), F.S.

<sup>9</sup> Section 243.70, F.S.

The authority's board consists of five members appointed by the Governor.<sup>10</sup> The board must submit an annual report regarding its activities to the Governor and presiding officers of each house of the Legislature within two months of the end of its fiscal year.<sup>11</sup>

Similar opportunities for higher educational facilities construction financing assistance are available through County Higher Educational Facilities Authorities (CHEFFA). However, since codified in 1969, CHEFFAs exist in only seven counties.<sup>12</sup> The Higher Educational Facilities Financing Authority was codified in 2001, in part, to extend such assistance to eligible institutions of higher education located in counties without a CHEFFA.<sup>13</sup> A more extensive list of projects may be financed through a CHEFFA. Allowable projects include:

- Costs for construction of dormitories or student housing, dining halls, student unions, administration or academic buildings, libraries, laboratories, research facilities, classrooms, athletic facilities, health care facilities, maintenance, storage, or utility facilities, and related facilities or structures required or useful for the instruction of students, research, or the operation of an educational institution(e.g., parking);
- Certain purchases of equipment and machinery; and
- A loan in anticipation of tuition revenues.

Books, fuel, supplies, or other items which are customarily deemed to be operating costs may not be financed through a CHEFFA.<sup>14</sup>

### **Effect of Proposed Changes**

The bill replaces the definition of "project" currently applicable to financing of construction projects through the authority with the broader definition currently applicable to CHEFFAs. Thus, allowable projects are expanded to add:

- Costs for construction of dining halls; student unions; laboratories; research facilities; classrooms; athletic facilities; health care facilities; maintenance, storage, or utility facilities; and related facilities or structures required or useful for the instruction of students, research, or the operation of an educational institution, e.g., parking; and
- Certain purchases of equipment and machinery.

Books, fuel, supplies, or other items which are customarily deemed to be operating costs may not be financed through the authority.

## **B. SECTION DIRECTORY:**

**Section 1.** Amends s. 243.52, F.S., relating to Definitions.

**Section 2.** Provides an effective date of July 1, 2015.

## **II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

### **A. FISCAL IMPACT ON STATE GOVERNMENT:**

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<sup>10</sup> Section 243.53(2), F.S.

<sup>11</sup> Section 243.73(1), F.S.

<sup>12</sup> Chapter 69-345, L.O.F., *codified as* Part I, ch. 243, F.S.; Documentation provided by Independent Colleges and Universities of Florida (Feb. 4, 2015).

<sup>13</sup> Chapter 2001-79, L.O.F.

<sup>14</sup> Section 243.20(5), F.S.

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:

None

D. FISCAL COMMENTS:

None.

### III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not Applicable. This bill does not appear to affect county or municipal governments.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

### IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES