

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Appropriations Subcommittee on Higher Education

BILL: SB 1712

INTRODUCER: Senators Montford and Thurston

SUBJECT: Postsecondary Revenue Bonds and Debt

DATE: February 13, 2018

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Bouck</u>	<u>Graf</u>	<u>ED</u>	Favorable
2.	<u>Sikes</u>	<u>Elwell</u>	<u>AHE</u>	Pre-meeting
3.	_____	_____	<u>AP</u>	_____

I. Summary:

SB 1712 modifies restrictions on debt payment sources for state universities by authorizing them to use federal grant and contract funds to secure revenue bonds, but only as required for an institution to participate in the Historically Black College and University Capital Financing Program (HBCU Program). In effect, the bill may allow Florida Agricultural and Mechanical University to participate in the HBCU Program.

The bill does not affect state revenues or expenditures.

The law takes effect July 1, 2018.

II. Present Situation:

Historically Black College and University Capital Financing Program

The Higher Education Act of 1965, as amended, defines a historically black college and university (HBCU) as "... any historically black college or university that was established prior to 1964, whose principal mission was, and is, the education of Black Americans, and that is accredited by a nationally recognized accrediting agency or association determined by the Secretary [of Education] to be a reliable authority as to the quality of training offered or is, according to such an agency or association, making reasonable progress toward accreditation...."¹

¹ U.S. Department of Education, *Historically Black College and University Capital Financing Program, Eligibility*, <https://www2.ed.gov/programs/hbcucapfinance/eligibility.html> (last visited Feb. 5, 2018). The Florida HBCUs are Florida Agricultural and Mechanical University (public), Bethune-Cookman University (private), Edward Waters College (private), and Florida Memorial University (private). National Center for Education Statistics, *College Navigator*, <https://nces.ed.gov/COLLEGENAVIGATOR/?s=FL&sp=4> (last visited Feb. 5, 2018).

The Historically Black College and University Capital Financing Program (HBCU Program), administered by the United States Department of Education (USDOE), provides low-cost capital to finance improvements to the infrastructure of the nation's HBCUs.² Specifically, the HBCU Program provides HBCUs with access to capital financing or refinancing for the repair, renovation, and construction of classrooms, libraries, laboratories, dormitories, instructional equipment, and research instrumentation.³ This assistance comes through the issuance of federal guarantees on the full payment of principal and interest on qualified bonds, the proceeds of which are used for loans.⁴ Public HBCUs have received about \$530 million in loan proceeds and private HBCUs have received about \$1.27 billion in loan proceeds⁵ through the HBCU Program

The HBCU Program specifies, as a part of the loan agreement, the procedures for repayment of the loan and procedures in the event of delinquency or default on the loan.⁶ Federal law requires that, for delinquent debt or a default on debt to the United States, the debts or payments may be collected by administrative offset.⁷ In order to borrow funds under the HBCU Program, the participating HBCU must permit the use of revenue from grants and contracts via administrative offset if the pledged revenues are insufficient to pay debt service.⁸ The USDOE may hold other federal funds, including grants and contracts owed to the HBCU, and apply those federal funds to debt service for the HBCU Program loan.⁹

State University Revenue Bonds and Debt

The Board of Governors (BOG), each state university, and any state university direct-support organization must comply with the provisions of law in order to issue or enter into agreements

² U.S. Department of Education, *Historically Black College and University Capital Financing Program, Purpose*, <https://www2.ed.gov/programs/hbcucapfinance/index.html> (last visited Feb. 5, 2018).

³ *Id.*

⁴ *Id.*

⁵ U.S. Department of Education, *Historically Black College and University Capital Financing Program, Awards*, <https://www2.ed.gov/programs/hbcucapfinance/awards.html> (last visited Feb. 5, 2018). Since September 2009, Florida Memorial University has received two HBCU Capital Financing program loans totaling \$44,060,000. Since July 1997, Bethune-Cookman College has received two HBCU Capital Financing program loans totaling \$20,295,000. *Id.*

⁶ U.S. Department of Education, *Legislation, Regulations, and Guidance*, <https://www2.ed.gov/programs/hbcucapfinance/legislation.html> (last visited Feb. 5, 2018).

⁷ 31 C.F.R. 901.3. "Administrative offset" means withholding funds payable by the United States (including funds payable by the United States on behalf of a State government) to, or held by the United States for, a person to satisfy a claim. 31 U.S.C., s. 3701.

⁸ Telephone interview, Board of Governors (Feb. 2, 2018).

⁹ *Id.*

for the issuance of revenue bonds or debt.¹⁰ The law authorizes the BOG to request the issuance of revenue bonds¹¹ to finance or refinance capital outlay projects¹² permitted by law.¹³ Revenue bonds may not be secured by or be payable from, directly or indirectly, the following sources:¹⁴

- Tuition;
- The financial aid fee;
- Sales and services of educational departments;
- Revenues from grants and contracts, except for money received for overhead and indirect costs and other moneys not required for the payment of direct costs; or
- Any other operating revenues of a state university.

The issuance of debt must be approved by the BOG and must be:¹⁵

- For a purpose consistent with the mission of the state university.
- Structured in a manner appropriate for the prudent financial management of the state university.
- Secured by revenues adequate to provide for all payments relating to the debt.
- Analyzed by the Division of Bond Finance,¹⁶ and issues raised by such analysis must be appropriately considered by the BOG.
- Consistent with the requirements of any policies or criteria adopted by the BOG for the approval of debt.¹⁷

III. Effect of Proposed Changes:

The bill modifies restrictions on debt payments sources for state universities by authorizing them to use federal grant and contract funds to secure revenue bonds but only as required for an institution to participate in the Historically Black College and University Capital Financing Program (HBCU Program).

¹⁰ Section 1010.62(8), F.S.

¹¹ Revenue bonds may be issued by the state or its agencies without a vote of the electors to finance or refinance the cost of state fixed capital outlay projects authorized by law, and purposes incidental thereto, and shall be payable solely from funds derived directly from sources other than state tax revenues. Art. VII, s. 11(d), Fla. Const.

¹² A capital outlay project is any project to acquire, construct, improve, or change the functional use of land, buildings, and other facilities, including furniture and equipment necessary to operate a new or improved building or facility. Section 1010.62(1)(b), F.S.

¹³ Section 1010.62(2)(a), F.S.

¹⁴ *Id.*

¹⁵ *Id.* at (3)(b).

¹⁶ The duties of the Division of Bond Finance within the State Board of Administration include the issuance of bonds for or on behalf of State agencies and providing technical assistance on new financing programs.

¹⁷ The Board of Governors *Debt Management Guidelines* confirm that the state universities and their direct-support organizations must engage in sound debt management practices and, to that end, the Board of Governors has formalized guiding principles for the issuance of debt by the state universities and their DSOs, Board of Governors, *Debt Management Guidelines* (June 17, 2016), available at http://www.flbog.edu/documents_regulations/guidelines/REVISED%20FAC%207%202%20Debt%20Management%20Guidelines%202016%20-%20DRAFT.pdf, at 1.

By permitting FAMU to pledge revenue from federal grants and contracts for the repayment of revenue bonds, the bill allows Florida Agricultural and Mechanical University (FAMU), as the only public historically black college and university (HBCU) in the state, to become eligible to participate in the HBCU Program. This authorization aligns with the federal requirements regarding collection by administrative offset.

The bill does not change the prohibition on the use of state funds to pay debt service on revenue bonds. Additionally, the bill does not change the requirement for analysis by the Division of Bond Finance and approval by the Board of Governors for the issuance of debt.¹⁸

The bill takes effect July 1, 2018.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The bill may provide FAMU access to competitive financing through the HBCU Program, which may result in interest rate savings for FAMU. The benefits may be extended to refinancing existing revenue bonds and for loans under the HBCU Program for future capital outlay projects.

The Board of Governors reports that, in 2016, Florida Agricultural and Mechanical University (FAMU) had researched refinancing its existing housing revenue bonds,

¹⁸ Board of Governors, *2018 Agency Analysis for HB 1712*, at 2.

which at the time totaled \$80 million.¹⁹ Projections at that time estimated that FAMU would save approximately \$1.2 million in debt service costs over the remaining life of the bond if FAMU were able to refinance the existing bonds under the HBCU Program.²⁰

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 1010.62 of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

¹⁹ Board of Governors, *2018 Agency Analysis for HB 375*, at 2. HB 375 is similar to SB 1712.

²⁰ *Id.*