

By the Committee on Appropriations; and the Appropriations
Committee on Education

576-03186-23

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1 A bill to be entitled
2 An act relating to higher education finances; amending
3 s. 1001.706, F.S.; requiring the Board of Governors to
4 develop regulations for university boards of trustees
5 relating to contracting for the construction of new
6 facilities or for work on existing facilities;
7 providing requirements for certain contracts executed
8 or amended before a specified date; amending s.
9 1009.26, F.S.; authorizing a state university to waive
10 the out-of-state fee for a student who is an
11 intercollegiate athlete receiving a scholarship;
12 amending ss. 1011.45 and 1013.841, F.S.; revising the
13 list of authorized expenditures that may be included
14 in a carry forward spending plan for state
15 universities and Florida College System institutions,
16 respectively; amending s. 1012.976, F.S.; revising
17 definitions; defining the term "public funds";
18 revising a limitation on compensation for state
19 university employees; amending s. 1013.45, F.S.;
20 providing that certain educational facility
21 contracting and construction techniques applicable to
22 school districts also apply to Florida College System
23 institutions; amending s. 1013.64, F.S.; deleting cost
24 and size limitations applicable to minor facilities;
25 providing an effective date.

26
27 Be It Enacted by the Legislature of the State of Florida:

28
29 Section 1. Paragraph (a) of subsection (7) of section

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30 1001.706, Florida Statutes, is amended to read:

31 1001.706 Powers and duties of the Board of Governors.—

32 (7) POWERS AND DUTIES RELATING TO PROPERTY.—

33 (a) The Board of Governors shall develop guidelines for
34 university boards of trustees relating to the acquisition of
35 real and personal property and the sale and disposal thereof and
36 the approval and execution of contracts for the purchase, sale,
37 lease, license, or acquisition of commodities, goods, equipment,
38 contractual services, leases of real and personal property, and
39 construction. The acquisition may include purchase by
40 installment or lease-purchase. Such contracts may provide for
41 payment of interest on the unpaid portion of the purchase price.
42 Title to all real property acquired before ~~prior to~~ January 7,
43 2003, and to all real property acquired with funds appropriated
44 by the Legislature shall be vested in the Board of Trustees of
45 the Internal Improvement Trust Fund and shall be transferred and
46 conveyed by it.

47 1. No later than October 1, 2023, the Board of Governors
48 shall develop regulations for university boards of trustees
49 relating to the procedures for contracting for professional
50 services as defined in s. 287.055 and for the construction of
51 new facilities or for the remodeling, renovation, or maintenance
52 of or additions or repairs to existing facilities. The
53 regulations must include, but are not limited to, competitive
54 bids, design-build, and selection of a construction management
55 entity. Contracts executed, extended, or amended on or before
56 September 30, 2023, must comply with the requirements of s.
57 287.055.

58 2. Notwithstanding ~~any other provisions of~~ this subsection,

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59 ~~each board of trustees shall comply with the provisions of s.~~
60 ~~287.055 for the procurement of professional services as defined~~
61 ~~therein.~~ any acquisition pursuant to this paragraph is subject
62 to ~~the provisions of s. 1010.62.~~

63 Section 2. Subsection (21) is added to section 1009.26,
64 Florida Statutes, to read:

65 1009.26 Fee waivers.—

66 (21) A state university may waive the out-of-state fee for
67 a student who is an intercollegiate athlete receiving an
68 athletic scholarship.

69 Section 3. Subsection (3) of section 1011.45, Florida
70 Statutes, is amended to read:

71 1011.45 End of year balance of funds.—Unexpended amounts in
72 any fund in a university current year operating budget shall be
73 carried forward and included as the balance forward for that
74 fund in the approved operating budget for the following year.

75 (3) A university's carry forward spending plan must ~~shall~~
76 include the estimated cost per planned expenditure and a
77 timeline for completion of the expenditure. Authorized
78 expenditures in a carry forward spending plan may include:

79 (a) Commitment of funds to a public education capital
80 outlay project ~~for which an appropriation has previously been~~
81 ~~provided that requires additional funds for completion and which~~
82 ~~is included in the list required by s. 1001.706(12)(d);~~

83 (b) Completion of a renovation, repair, or maintenance
84 project that is consistent with ~~the provisions of s. 1013.64(1),~~
85 ~~up to \$5 million per project and~~ or replacement of a minor
86 facility ~~that does not exceed 10,000 gross square feet in size~~
87 ~~up to \$2 million;~~

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88 (c) Completion of a remodeling or infrastructure project,
89 including a project for a developmental research school, ~~up to~~
90 ~~\$10 million per project,~~ if such project is survey recommended
91 pursuant to s. 1013.31;

92 (d) Completion of a repair or replacement project necessary
93 due to damage caused by a natural disaster for buildings
94 included in the inventory required pursuant to s. 1013.31;

95 (e) Operating expenditures that support the university's
96 ~~university~~ mission and ~~that are nonrecurring;~~

97 (f) Any purpose specified by the board or in the General
98 Appropriations Act, including the requirements in s.
99 1001.706(12)(c) or similar requirements pursuant to Board of
100 Governors regulations; and

101 (g) A commitment of funds to a contingency reserve for
102 expenses incurred as a result of a state of emergency declared
103 by the Governor pursuant to s. 252.36.

104 Section 4. Subsection (4) of section 1013.841, Florida
105 Statutes, is amended to read:

106 1013.841 End of year balance of Florida College System
107 institution funds.—

108 (4) A Florida College System institution identified in
109 paragraph (3)(b) must include in its carry forward spending plan
110 the estimated cost per planned expenditure and a timeline for
111 completion of the expenditure. Authorized expenditures in a
112 carry forward spending plan may include:

113 (a) Commitment of funds to a public education capital
114 outlay project ~~for which an appropriation was previously~~
115 ~~provided, which requires additional funds for completion, and~~
116 ~~which is included in the list required by s. 1001.03(18)(d);~~

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117 (b) Completion of a renovation, repair, or maintenance
 118 project that is consistent with ~~the provisions of s. 1013.64(1)~~
 119 or replacement of a minor facility, up to \$5 million per
 120 ~~project;~~

121 (c) Completion of a remodeling or infrastructure project,
 122 ~~up to \$10 million per project,~~ if such project is survey
 123 recommended pursuant to s. 1013.31;

124 (d) Completion of a repair or replacement project necessary
 125 due to damage caused by a natural disaster for buildings
 126 included in the inventory required pursuant to s. 1013.31;

127 (e) Operating expenditures that support the Florida College
 128 System institution's mission ~~which are nonrecurring;~~

129 (f) Any purpose approved by the state board or specified in
 130 the General Appropriations Act; and

131 (g) A commitment of funds to a contingency reserve for
 132 expenses incurred as a result of a state of emergency declared
 133 by the Governor pursuant to s. 252.36.

134 Section 5. Section 1012.976, Florida Statutes, is amended
 135 to read:

136 1012.976 Remuneration of state university employees;
 137 limitations.—

138 (1) DEFINITIONS.—As used in this section, the term:

139 (a) ~~"Appropriated state funds" means funds appropriated~~
 140 ~~from the General Revenue Fund or funds appropriated from state~~
 141 ~~trust funds.~~

142 ~~(b)~~ "Cash-equivalent compensation" means any benefit that
 143 may be assigned an equivalent cash value.

144 (b) "Public funds" means funds appropriated from the
 145 General Revenue Fund, funds appropriated from state trust funds,

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146 or tuition and fees.

147 (c) "Remuneration" means salary, bonuses, and cash-
148 equivalent compensation paid to a state university employee by
149 his or her employer for work performed, excluding health
150 insurance benefits and retirement benefits.

151 (2) LIMITATION ON COMPENSATION.—Notwithstanding any other
152 law, resolution, or rule to the contrary, a state university
153 employee may not receive more than \$250,000 ~~\$200,000~~ in
154 remuneration annually from public ~~appropriated state~~ funds. Only
155 compensation, as such term is defined in s. 121.021(22),
156 provided to a state university employee may be used in
157 calculating benefits under chapter 121.

158 (3) EXCEPTIONS.—This section does not prohibit any party
159 from providing cash or cash-equivalent compensation from funds
160 that are not public ~~appropriated state~~ funds to a state
161 university employee in excess of the limit in subsection (2). If
162 a party is unable or unwilling to fulfill an obligation to
163 provide cash or cash-equivalent compensation to a state
164 university employee as permitted under this subsection, public
165 ~~appropriated state~~ funds may not be used to fulfill such
166 obligation. This section does not apply to university teaching
167 faculty in instructional programs classified as Computer
168 Information Sciences and Support Services; Engineering;
169 Engineering Technologies and Engineering-Related Fields; Florida
170 Mental Health Institute; Health Professions and Related
171 Programs; Homeland Security, Law Enforcement, Firefighting, and
172 Related Fields; Mathematics; Nursing; or Physical Sciences; or
173 to medical school faculty or staff.

174 Section 6. Section 1013.45, Florida Statutes, is amended to

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175 read:

176 1013.45 Educational facilities contracting and construction
177 techniques for school districts and Florida College System
178 institutions.—

179 (1) District school boards and boards of trustees of
180 Florida College System institutions may employ procedures to
181 contract for construction of new facilities, or for additions,
182 remodeling, renovation, maintenance, or repairs to existing
183 facilities, which ~~that will~~ include, but are not ~~be~~ limited to:

184 (a) Competitive bids.

185 (b) Design-build pursuant to s. 287.055.

186 (c) Selecting a construction management entity, pursuant to
187 s. 255.103 or the process provided by s. 287.055, that would be
188 responsible for all scheduling and coordination in both design
189 and construction phases and is generally responsible for the
190 successful, timely, and economical completion of the
191 construction project. The construction management entity must
192 consist of or contract with licensed or registered professionals
193 for the specific fields or areas of construction to be
194 performed, as required by law. At the option of the board, the
195 construction management entity, after having been selected, may
196 be required to offer a guaranteed maximum price or a guaranteed
197 completion date; in which case, the construction management
198 entity must secure an appropriate surety bond pursuant to s.
199 255.05 and must hold construction subcontracts. The criteria for
200 selecting a construction management entity may ~~shall~~ not
201 unfairly penalize an entity that has relevant experience in the
202 delivery of construction projects of similar size and complexity
203 by methods of delivery other than construction management.

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204 (d) Selecting a program management entity, pursuant to s.
205 255.103 or the process provided by s. 287.055, that would act as
206 the agent of the board and would be responsible for schedule
207 control, cost control, and coordination in providing or
208 procuring planning, design, and construction services. The
209 program management entity must consist of or contract with
210 licensed or registered professionals for the specific areas of
211 design or construction to be performed as required by law. The
212 program management entity may retain necessary design
213 professionals selected under the process provided in s. 287.055.
214 At the option of the board, the program management entity, after
215 having been selected, may be required to offer a guaranteed
216 maximum price or a guaranteed completion date, in which case the
217 program management entity must secure an appropriate surety bond
218 pursuant to s. 255.05 and must hold design and construction
219 subcontracts. The criteria for selecting a program management
220 entity may ~~shall~~ not unfairly penalize an entity that has
221 relevant experience in the delivery of construction programs of
222 similar size and complexity by methods of delivery other than
223 program management.

224 (e) Day-labor contracts not exceeding \$280,000 for
225 construction, renovation, remodeling, or maintenance of existing
226 facilities. This amount shall be adjusted annually based upon
227 changes in the Consumer Price Index.

228 (2) For the purposes of this section, "day-labor contract"
229 means a project constructed using persons employed directly by a
230 board or by contracted labor.

231 (3) Contractors, design-build firms, contract management
232 entities, program management entities, or any other person under

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233 contract to construct facilities or major additions to
234 facilities may use any construction techniques allowed by
235 contract and not prohibited by law, including, but not limited
236 to, those techniques known as fast-track construction
237 scheduling, use of components, and systems building process.

238 (4) Except as otherwise provided in this section and s.
239 481.229, the services of a registered architect must be used for
240 the development of plans for the erection, enlargement, or
241 alteration of any educational facility. The services of a
242 registered architect are not required for a minor renovation
243 project for which the construction cost is less than \$50,000 or
244 for the placement or hookup of relocatable educational
245 facilities that conform to ~~with~~ standards adopted under s.
246 1013.37. However, boards must provide compliance with building
247 code requirements and ensure that these structures are
248 adequately anchored for wind resistance as required by law. A
249 district school board shall reuse existing construction
250 documents or design criteria packages if such reuse is feasible
251 and practical. If a school district's 5-year educational
252 facilities work plan includes the construction of two or more
253 new schools for students in the same grade group and program,
254 such as elementary, middle, or high school, the district school
255 board must ~~shall~~ require that prototype design and construction
256 be used for the construction of these schools. Notwithstanding
257 s. 287.055, a board may purchase the architectural services for
258 the design of educational or ancillary facilities under an
259 existing contract agreement for professional services held by a
260 district school board in the State of Florida, provided that the
261 purchase is to the economic advantage of the purchasing board,

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262 the services conform to the standards prescribed by rules of the
263 State Board of Education, and such reuse is not without notice
264 to, and permission from, the architect of record whose plans or
265 design criteria are being reused. Plans must ~~shall~~ be reviewed
266 for compliance with the State Requirements for Educational
267 Facilities. Rules adopted under this section must establish
268 uniform prequalification, selection, bidding, and negotiation
269 procedures applicable to construction management contracts and
270 the design-build process. This section does not supersede any
271 small, woman-owned, or minority-owned business enterprise
272 preference program adopted by a board. Except as otherwise
273 provided in this section, the negotiation procedures applicable
274 to construction management contracts and the design-build
275 process must conform to the requirements of s. 287.055. A board
276 may not modify any rules regarding construction management
277 contracts or the design-build process.

278 Section 7. Paragraph (h) of subsection (1) of section
279 1013.64, Florida Statutes, is amended to read:

280 1013.64 Funds for comprehensive educational plant needs;
281 construction cost maximums for school district capital
282 projects.—Allocations from the Public Education Capital Outlay
283 and Debt Service Trust Fund to the various boards for capital
284 outlay projects shall be determined as follows:

285 (1)

286 (h) University boards of trustees may utilize funds
287 appropriated pursuant to this section for replacement of minor
288 facilities ~~provided that such projects do not exceed \$1 million~~
289 ~~in cost or 10,000 gross square feet in size.~~ Minor facilities
290 may not be replaced from funds provided pursuant to this section

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291 unless the board determines that the cost of repair or
292 renovation is greater than or equal to the cost of replacement.

293 Section 8. This act shall take effect July 1, 2023.