

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 Committee on Health Policy

BILL: CS/SB 68

INTRODUCER: Health Policy Committee and Senator Martin

SUBJECT: Health Facilities Authorities

DATE: March 26, 2025

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Shuler</u>	<u>Fleming</u>	<u>CA</u>	Favorable
2.	<u>Smith</u>	<u>Brown</u>	<u>HP</u>	Fav/CS
3.	_____	_____	<u>RC</u>	_____

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 68 amends multiple provisions of Part III of ch. 154, F.S., related to health facilities authorities (authorities). The bill expands the definition of “health facility” to include other entities and associations organized not for profit, including, but not limited to, limited liability companies that are organized as not-for-profit organizations and controlled directly or indirectly by one or more not-for-profit organizations. The bill expands the powers of authorities related to loans, bonds, and other debts used for the purpose of acquiring, constructing, financing, and refinancing projects and specifies requirements for agreements executed for such financing tools.

The bill provides an effective date of July 1, 2025.

II. Present Situation:

Health Facilities Authorities

Generally

The Health Facilities Authorities Law¹ (the Law) was enacted in 1974, to provide health facilities in each local agency (defined as a county or municipality²) with a measure of assistance and an alternate method to enable the health facilities to provide the facilities and structures that

¹ Part III of ch. 154, F.S.

² Section 154.205(9), F.S.

are determined to be needed by the community to improve the development and maintenance of the public health.³

Health facilities include any private corporation organized not-for-profit and authorized by law to provide:

- Hospital services in accordance with ch. 395, F.S., related to hospital licensing and regulation;
- Nursing home care services in accordance with ch. 400, F.S., related to nursing home and related health care facilities;
- Life care services in accordance with ch. 651, F.S., related to continuing care contracts;
- Services for the developmentally disabled under ch. 393, F.S., related to developmental disabilities;
- Services for the mentally ill under ch. 394, F.S., related to mental health;
- Assisted living services in accordance with ch. 429, F.S., related to assisted care communities;
- Hospice services in accordance with ch. 400, F.S., related to nursing homes and related health care facilities; and
- Independent living facilities and services as part of a retirement community that provides nursing home care services or assisted living services on the same campus.⁴

The Law authorizes a local agency to create an authority if the governing body⁵ of the local agency determines there is a need for an authority by adopting an ordinance or resolution.⁶ An authority is a public corporation created by s. 154.207, F.S.; or a board, body, commission, or department of a local agency succeeding to the principal functions of the public corporation or to whom the powers and responsibilities authorized by the Law are given by the local agency.⁷ The governing body of the local agency is required to appoint five persons, who must be residents of the local agency, as members of the authority to serve staggered terms of 4 years each.⁸ Members of the authority are eligible for reappointment and serve without compensation, but are paid for necessary expenses incurred while engaged in the performance of the authority's duties.⁹ Costs of employing professionals, staff, and other costs of operating the authority must be paid from funds obtained under the Law.¹⁰

Any member of the authority who is employed by, or receives income from, a health facility under consideration by the authority may not vote on any matter related to that facility.¹¹ All meetings of the authority, and its records, books, documents, and papers are open and available to the public in accordance with the Public Meetings Law in s. 286.011, F.S.¹²

³ Section 154.203, F.S.

⁴ Section 154.205(8), F.S.

⁵ The governing body means the board, commission, or other governing body of any local agency in which the general legislative powers of such local agency are vested. Section 154.205(7), F.S.

⁶ Section 154.207(1), F.S.

⁷ Section 154.205(2), F.S.

⁸ Section 154.207(4), F.S.

⁹ Section 154.207(8), F.S.

¹⁰ See s. 154.211, F.S.

¹¹ Section 154.207(9), F.S.

¹² Section 154.207(7), F.S.

Purpose and Powers of the Authority

The purpose of the authority is to assist health facilities in the acquisition, construction, financing, and refinancing of projects within the geographical limits of the local agency.¹³ However, if an authority finds that there will be a benefit or a cost savings to a health facility located within its jurisdiction, it may issue bonds for the health facility to finance projects for the health facility or for another not-for-profit corporation under common control with a health facility that is located outside the geographical limits of the local agency or outside the state.¹⁴

A “project” is defined¹⁵ as any structure, facility, machinery, equipment, or other property suitable for use by a health facility in connection with its operations or proposed operations, including without limitation:

- Real property;
- A clinic, computer facility, dining hall, firefighting facility, fire prevention facility, food service and preparation facility, health care facility, long-term care facility, hospital, interns’ residence, laboratory, laundry, maintenance facility, nurses’ residence; nursing home, nursing school, office, parking area, pharmacy, recreational facility, research facility, storage facility, utility, or X-ray facility, or any combination of these; and
- Other structures or facilities related, required, or useful for health care purposes, research, or the operation of a health facility, including facilities or structures essential or convenient for the orderly conduct of the health facility and other similar items necessary or convenient for the operation of a particular facility or structure in the manner for which its use is intended; and excluding fuel, supplies, or other items customarily charged as current operating expenses.

The Law also provides in s. 154.209(18), F.S., that an accounts receivable program constitutes a project.

The authority is authorized and empowered, among other things, to:

- Sue and be sued;
- Purchase, lease, receive by gift or otherwise, or obtain options for the acquisition of, any real or personal property for the acquisition, construction, operation, or maintenance of any project;
- Construct, acquire, own, lease, repair, maintain, extend, expand, improve, rehabilitate, renovate, furnish, and equip projects and to pay all or any part of these costs from the proceeds of bonds of the authority or from any other funds made available to the authority for such purpose;
- Make and execute agreements of lease, contracts, deeds, mortgages, notes, and other instruments necessary or convenient in the exercise of its powers and functions;
- Sell, lease, exchange, mortgage, transfer, or otherwise dispose of, or to grant options for any such purposes with respect to any project, any real or personal property or interest therein;

¹³ Section 154.209, F.S.

¹⁴ Section 154.247, F.S.

¹⁵ Section 154.205(10), F.S.

- Pledge or assign any money, rents, charges, fees, or other revenues and any proceeds derived from sales of property, insurance, or condemnation awards;
- Fix, charge, and collect rents, fees, and charges for the use of any project;
- Issue bonds for the purpose of providing funds to pay all or any part of the cost of any project and to issue refunding bonds;
- Employ consulting engineers, architects, surveyors, attorneys, accountants, financial experts, and such other employees and agents as may be necessary and to fix their compensation;
- Acquire existing projects, reimburse any health facility for the cost of such project, and refund outstanding obligations, mortgages, or advances issued, made, or given by a health facility for the cost of the project;
- Mortgage any project and site for the benefit of the holders of the bonds issued to finance that project;
- Participate in and to issue bonds for the purpose of establishing and maintaining a self-insurance pool, as provided under the state Insurance Code, on behalf of a health facility or a group of health facilities in order to resolve issues related to an act or omission of the health facility, its employees, or agents in the performance of health care or health-care-related functions;
- Issue special obligation revenue bonds for the purpose of establishing and maintaining the self-insurance pool and related reserve funds;
- Participate in and issue bonds and other forms of indebtedness for the purpose of establishing and maintaining an accounts receivable program on behalf of a health facility or group of health facilities;
- Issue and renew its negotiable notes; and
- Issue revenue bonds for the purpose of paying all or any part of the cost of any project or for acquiring existing or completed health facilities projects and negotiable bond anticipation notes payable out of revenues derived by the authority from the sale, operation, or leasing of any project.¹⁶

Revenue bonds issued by an authority under the Law are not a debt, liability, obligation, or a pledge of the faith and credit of the local agency, the state, or any political subdivision but are payable solely from the revenues of the project.¹⁷

The Law provides that if a project is subject to review under the Health Facility and Services Development Act in ss. 408.031 – 408.045, F.S., a certificate of need (CON) is required before revenue bonds are validated for a project.¹⁸ A CON is a written statement issued by the Agency for Health Care Administration (Agency) evidencing community need for a new, converted, expanded, or otherwise significantly modified health care facility or hospice.¹⁹ Currently, a CON is required for the addition of beds in community nursing homes or intermediate care facilities for the developmentally disabled, the new construction or establishment of additional health care

¹⁶ See ss. 154.209, 154.217, and 154.219, F.S.

¹⁷ Section 154.223, F.S.

¹⁸ Section 154.245, F.S. See also s. 154.213, F.S.

¹⁹ Section 408.032(3), F.S.

facilities²⁰ the conversion from one type of health care facility to another, and the establishment of a hospice, certain hospice inpatient facilities.²¹ A CON issued by the Agency is not required for certain projects upon request.²²

Currently there are 22 Health Facilities Authorities throughout the state.²³

III. Effect of Proposed Changes:

CS/SB 68 revises the definition of a health facility to include other entities and associations organized not for profit, including, but not limited to, limited liability companies that are organized as not-for-profit organizations and controlled directly or indirectly by one or more not-for-profit organizations.

The bill revises the powers of authorities to include the power to make and execute loan agreements; to refund outstanding bonds; to refund certain debts issued, made, or given on behalf of a health facility; to make mortgage or other secured or unsecured loans to or for the benefit of any health facility for the cost of a project or to refund or refinance outstanding bonds, obligations, loans, indebtedness, or advances.

The bill requires that mortgage or other secured or unsecured loans be made pursuant to an agreement between an authority and a health facility and allows such loans to be made to an entity affiliated with a health facility that undertakes such financing, refunding, or refinancing, if the loan proceeds are made available to or applied for the benefit of the health facility.

The bill applies the existing requirements for lease agreements in current law to loan agreements and specifies additional requirements for loan agreements. Specifically, the bill requires that a loan agreement govern projects financed or refinanced by the authority with the proceeds of bonds. Such a loan agreement may be between an authority and a health facility or between an authority and an entity affiliated with a health facility that undertakes such financing if the loan proceeds are made available to or applied for the benefit of the health facility.

The bill provides an effective date of July 1, 2025.

²⁰ Except for a replacement health care facility when the proposed project site is located on the same site as or within 1 mile of the existing health care facility if the number of beds in each licensed bed category will not increase.

Section 408.036(1)(b), F.S.

²¹ Section 408.036(1), F.S.

²² See s.408.036(3), F.S.

²³ FLORIDA DEPARTMENT OF COMMERCE, Official List of Special Districts, <https://www.floridajobs.org/community-planning-and-development/special-districts/special-district-accountability-program/official-list-of-special-districts>, (last visited on Mar 21, 2025). They include the Alachua County Health Facilities Authority, Altamonte Springs Health Facilities Authority, Brevard County Health Facilities Authority, City of Cape Coral Health Facilities Authority, City of Miami Health Facilities Authority, City of South Miami Health Facilities Authority, City of St. Petersburg Health Facilities Authority, Collier County Health Facilities Authority, Escambia Health Facilities Authority, Highlands County Health Facilities Authority, Jacksonville Health Facilities Authority, Martin County Health Facilities Authority, Miami Beach Health Facilities Authority, Miami-Dade County Health Facilities Authority, Mount Dora Health Facilities Authority, Orange County Health Facilities Authority, Osceola County Health Facilities Authority, Palm Beach County Health Facilities Authority, Pasco County Health Facilities Authority, Pinellas County Health Facilities Authority, Santa Rosa County Health Facilities Authority, and Sarasota County Health Facilities Authority. *Id.*

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The bill expands the available options for authorities to assist private entities in acquiring, constructing, financing, and refinancing projects supporting the provision of health care services.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 154.205, 154.209, 154.213, 154.219, 154.221, 154.225, 154.235, and 154.247.

IX. Additional Information:

- A. **Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Health Policy on March 25, 2025:

The committee substitute clarifies that a limited liability company that has been organized as a not-for-profit entity may receive financing from a health facilities authority.

- B. **Amendments:**

None.