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LEGISLATION - BOARD OF GOVERNORS

A bill to be entitled.....

Section 1. Section 1010.62, Florida Statutes, is created to read:

1010.62 Revenue Bonds and Debt.- -

(1) As used in this section, the term:

(a) “debt” means bonds, except revenue bonds as defined in paragraph (d), loans, promissory notes, lease-purchase agreements, certificates of participation, installment sales, leases, or any other financing mechanism or financial arrangement, whether or not a debt for legal purposes, for financing or refinancing, for or on behalf of a state university or a direct support organization, the acquisition, construction, improvement or purchase of capital outlay projects.

(b) “direct support organization” means any entity supporting the financial or other operations of a state university or incurring debt on behalf of a state university, including, but not limited to, those created pursuant to s. 1004.28.

(c) “capital outlay project” means

1. 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, and

2. any other acquisition of equipment or software.

(d) “revenue bonds” means any obligation which constitutes a revenue bond pursuant to

Article VII, Section 11 (d) of the Florida Constitution.

(2) (a) The Board of Governors may request the issuance of revenue bonds pursuant to the State Bond Act and s. 11(d), Art. VII of the State Constitution to finance or refinance capital outlay projects permitted by law. Revenue bonds may not be secured by or be payable from, either directly or indirectly, tuition, the activity and service fee authorized pursuant to s. 1009.24 (8), the athletic fee authorized pursuant to s. 1009.24 (8), revenues from grants and contracts, sales and services of educational departments, gifts and donations, or any other operating revenues of a state university, and may only be secured by the building fee and the capital improvement fee established pursuant to s. 1009.24 (7), the health fee authorized pursuant to s. 1009.24 (8), those revenues derived from or received in relation to sales and services of auxiliary enterprises including, but not limited to, housing, transportation, traffic, healthcare, research activities, foodservice, retail sales, athletic activities, student activities or other similar services, other revenues attributable to the projects to be financed or refinanced, any other revenue approved by the Legislature for facilities construction or for securing revenue bonds issued pursuant to s. 11(d), Art. VII of the State Constitution, or any other revenues permitted by law.

(b) In connection with the issuance of revenue bonds, the Board of Governors, and the state university if so designated by the Board of Governors, shall comply with all covenants, commitments or other provisions relating to the revenue bonds. Such covenants, commitments, or other provisions, in addition to those provided in the State Bond Act, may relate to:

1. pledging the fees, charges, and other revenues which secure the revenue bonds;
2. fixing and maintaining fees, rates, and other charges pledged to the payment of the revenue bonds;

3. providing a lien on the revenues pledged;
4. preventing or providing for the creation of other liens on the fees, charges, and other revenues which secure the revenue bonds;
5. establishing and maintaining reserves for debt service payments on revenue bonds;
6. providing for the operation, maintenance, and improvement of facilities which are related to the generation of the fees, revenues, and other charges pledged to the payment of the revenue bonds; and,
7. establishing any other covenants, commitments, or provisions which are deemed necessary or advisable to enhance the security of the revenue bonds, and the marketability thereof, and which are customary in accordance with the market requirements for the sale of such revenue bonds.

(3) (a) No state university or direct support organization may issue debt without the approval of the Board of Governors. The Board of Governors may only approve the issuance of debt by a state university or a direct support organization when such debt is used to finance or refinance capital outlay projects which are necessary and desirable to serve the needs and purposes of the state university. The debt may not be secured by or be payable from, either directly or indirectly, tuition, the activity and service fee authorized pursuant to s. 109.24 (8), the athletic fee authorized pursuant to s. 109.24 (8), revenues from grants and contracts, sales and services of educational departments, gifts and donations, or any other operating revenues of a state university, and may only be secured by the health fee authorized pursuant to s. 1009.24 (8) or those revenues derived from or received in relation to sales and services of auxiliary enterprises, including, but not limited to, housing, transportation, traffic, healthcare, research activities, foodservice, retail sales, athletic activities,

student activities or other similar services. The debt of direct support organizations may not be secured by or be payable under an agreement or contract with a state university unless the source of payments under such agreement or contract is limited to revenues that universities are authorized to use for payment of debt service. No debt may be approved to finance or refinance operating expenses of a state university or a direct support organization. The maturity of debt used to finance or refinance the acquisition of equipment or software, including any renewal or refunding periods, shall not extend beyond either five years or the estimated useful life of the equipment or software, whichever occurs first. The Board of Governors may establish conditions and limitations on such debt as it determines to be advisable.

(b) Approval by the Board of Governors of the issuance of debt shall be based upon a determination that the debt:

1. is for a purpose consistent with the mission of the state university;
2. is structured in a manner appropriate for the prudent financial management of the state university;
3. is to be incurred in a manner consistent with policies governing the issuance of State debt;
4. is secured by revenues adequate to provide for all payments relating to the debt;
5. has received the affirmative recommendation of the Division of Bond Finance; and
6. is consistent with the requirements of any policies or criteria adopted by the Board of Governors for the approval of debt.

(4) The approval by the Board of Governors of revenue bonds, except refunding bonds, or debt must be requested by a resolution of the board of trustees of each state university involved in

the issuance of the revenue bonds or debt.

(5) Revenue bonds or debt issued hereunder may be secured on a parity with prior revenue bonds or debt issued by or on behalf of one or more universities or a direct support organization.

(6) Capital outlay projects to be financed by revenue bonds or debt are limited to those approved by the Legislature either through approval of the specific project or general approval of the type or category of capital outlay project.

(7) (a) As required pursuant to s. 11 (d), Art. VII of the State Constitution and subsection (6), the legislature hereby approves those capital outlay projects which meet the following requirements:

1. the project is located on a campus of a state university or is used for activities relating to the state university;
2. the project is included in the master plan of the state university;
3. the project is approved by the Board of Governors as being consistent with the strategic plan of the state university and the programs offered by the state university; and
4. the project is for purposes relating to the housing, transportation, traffic, healthcare, research activities, foodservice, retail sales, athletic activities, or student activities of the state university.

(b) Capital outlay projects for the acquisition of equipment or software are also approved for purposes of subsection (6), to the extent that the overall term of the financing, including any renewal or refinancing periods, does not exceed either five years or the estimated useful life of the items being financed, whichever occurs first.

(8) Notwithstanding any other law, the Board of Governors, each state university, and any direct support organization must comply with the provisions of this section to issue or enter into agreements for the issuance of revenue bonds or debt.

(9) The Board of Governors may adopt such rules or policies as may be necessary or desirable for carrying out all of the requirements of this section and may do all things necessary or desirable to carry out the powers granted herein.

(10) Any legal commitments, contracts, or other obligations relating to the financing of capital outlay projects, which were lawfully entered into prior to the effective date of this section shall remain in full force and effect. Any such legal commitment, contract or other obligation may be amended without compliance with this section but only to the extent that such amendment does not extend the term of the underlying obligation or increase the financial obligation of the Board of Governors, a state university or a direct support organization.