
SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

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

Date: March 26, 1998

Revised: _____

Subject: Education Property Tax Exemption

	<u>Analyst</u>	<u>Staff Director</u>	<u>Reference</u>	<u>Action</u>
1.	Cooper	Yeatman	CA	Favorable
2.			ED	
3.			WM	
4.				
5.				

I. Summary:

This bill provides that, for purposes of the educational property tax exemption from taxation, property is considered to be owned by an educational institution if the title to the property is held by the trustee of an irrevocable inter vivos trust and if the trust grantor owns 100 percent of the corporation that operates the educational institution that is using the land exclusively for educational purposes.

This bill amends section 196.198 of the Florida Statutes.

II. Present Situation:

Section 3(a) of Article VII of the State Constitution specifies that portions of property “used predominantly for educational, literary, scientific, religious, or charitable purposes may be exempted by general law from taxation.” Chapter 196, F.S., among other things, implements these exemptions. Pursuant to s. 196.196(2), F.S., only those portions of property used “predominantly” for charitable, religious, scientific, and literary purposes are exempt from taxation. Pursuant to s. 196.012(3), F.S., “predominant use” means use of property “for exempt purposes in excess of 50 percent. . . .” The exemption is applied proportionately.

Section 196.198, F.S., implements the educational property tax exemption. The exemption is available to “*educational institutions within this state for their property used by them or by any other exempt entity or educational institution exclusively for educational purposes.*”

Section 196.012(5), F.S., defines “educational institution” as follows:

- A federal, state, parochial, church or private school, college or university conducting regular classes and courses of study required for eligibility to certification by, accreditation to, or membership in the State Department of Education of Florida, Southern Association of Colleges and Schools, or the Florida Council of Independent Schools;
- A nonprofit private school the principal activity of which is conducting regular classes and courses of study accepted for continuing postgraduate dental education credit by a board of the Division of Medical Quality Assurance;
- Educational direct-support organizations created pursuant to ss. 229.8021, 240.299 and 240.331, F.S.; and
- Facilities located on the property of eligible entities which will become owned by those entities on a date certain.

Like the other constitutional property tax exemptions, the property must be owned by the exempt entity and used for exempt purposes to qualify for the educational property exemption. However, the property must be used *exclusively*, as opposed to predominantly, for the exempt purpose, to qualify for the educational exemption. “Exclusive use” is defined in s. 196.012(2), F.S., as “use of property solely for exempt purposes. . . .” As to the issue of ownership, s. 196.198, F.S., specifies as follows:

Property used exclusively for educational purposes shall be deemed owned by an educational institution if the entity owning 100 percent of the educational institution is owned by the identical persons who own the property.

Until 1994, property owned and used by the Florida Technical College for educational purposes was exempt from property taxes. However, in April 1993, the owner placed the college real property into an irrevocable family support trust by warranty deed to the trustee, with his children as beneficiaries of the trust. The college received no interest in the trust. The trust provided that the trust estate may be divided equally among beneficiaries in the year 2003, at the option of the beneficiaries, upon a majority vote. The beneficiaries will have the option to continue the trust for up to two additional ten year periods. The trust does not provide that the legal title to the property would ever go to the college either during the trust or upon termination of the trust.

In 1995, the Orange County Property Appraiser denied the exemption to the college because the owner of the institution no longer owned the property for which the exemption was sought.

III. Effect of Proposed Changes:

Senate Bill 970 amends s. 196.198, F.S., to provide as follows:

If title to land is held by the trustee of an irrevocable inter vivos trust and if the trust grantor owns 100 percent of the corporation that operates an educational institution that is using the land exclusively for educational purposes, the land is considered to be property owned by the educational institution.

If this bill becomes law, property used by the Florida Technical College would qualify for an educational property tax exemption.

This bill will take effect upon becoming a law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The bill reduces the property tax base of municipalities or counties, thereby reducing their authority to raise revenues in the aggregate. However, the impact of this bill is estimated to be insignificant; therefore, the bill is exempt from the constitutional mandates restriction.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

This bill narrowly expands the educational property tax exemption, thereby reducing the property tax base for local governments. In 1997, the taxable value of property used by the Florida Technical College was \$966,910, resulting in \$18,768 in taxes owed.

B. Private Sector Impact:

Florida Technical College will be eligible to receive the educational property tax exemption for their property. It is not known if or what other educational institutions in this state may qualify for an educational property exemption under this provision.

C. Government Sector Impact:

If Florida Technical College is granted the exemption, local governments in Orange County may receive less tax revenue.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Amendments:

None.

This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.
