HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 235 Community College Finance

SPONSOR(S): Heller

TIED BILLS: **IDEN./SIM. BILLS:** CS/SB 696

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Committee on Postsecondary Education	9 Y, 0 N	Tilton	Tilton
2) Schools & Learning Council		Tilton	Cobb
3) Policy & Budget Council			
4)			
5)			

SUMMARY ANALYSIS

This bill revises the authority of community college boards of trustees to enter into debt by providing requirements for short-term and long-term debt.

The bill authorizes community college boards of trustees to enter into short-term financing arrangements for five years or less; permits the boards to incur long-term debt for a term up to seven years through the use of long-term financing arrangements backed by capital improvement fees and parking fees; requires boards to use the Division of Bond Finance to issue revenue bonds pledged by capital improvement fees; authorizes the boards to pledge parking fee revenue to debt without using the services of or obtaining the approval of the Division of Bond Finance for an overall term not to exceed 20 years if the interest rate on the debt is lower than the rate in the Municipal Market Data yield list; requires boards to authorize all debt incurred by a direct support organization, but permits the board to delegate to the direct support organization authority to approve short-term loans and lease purchase agreements with a term of five years or less; and creates a mechanism by which certain funds appropriated to a community college may be used to service the community college's debt if there are insufficient revenues from capital improvement fees.

The fiscal impact of the bill is indeterminate. See FISCAL COMMENTS section.

The effective date is July 1, 2008.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide Limited Government: HB 235 authorizes the Department of Education to adopt rules to allocate debt service liability among community colleges under certain circumstances.

B. EFFECT OF PROPOSED CHANGES:

Present Situation

Workforce Education Postsecondary Student Fees

Each community college board of trustees is authorized to establish a separate fee for capital improvements, technology enhancements, or equipping buildings which may not exceed 5 percent of tuition for resident students or 5 percent of tuition and out-of-state fees for nonresident students. Capital improvement fee revenues from workforce education programs must be expended to construct and equip, maintain, improve, or enhance the certificate career education or adult education facilities of the community college. The fee revenues may be used as a dedicated source to the repayment of debt, including lease-purchase agreements and revenue bonds, with a term not to exceed 20 years and not to exceed the useful life of the asset being financed, only for new construction and equipment, renovation, or remodeling of facilities. The community college may use the services of the Division of Bond Finance to issue bonds supported by capital improvement fee revenues. Any bonds issued by the Division of Bond Finance must be in compliance with the State Bond Act.[1]

Each community college board of trustees is authorized to establish a separate fee for technology, not to exceed $1.80 per credit hour or credit hour equivalent for resident students and no more than $5.40 per credit hour or credit hour equivalent for nonresident students to be expended in accordance with technology improvement plans. The technology fee may only apply to associate degrees and programs. Fifty percent of technology fee revenues from workforce education programs may be pledged as a dedicated revenue source for the repayment of debt, including lease-purchase agreements, not to exceed the useful life of the asset being financed. Revenues from the technology fee may not be bonded.[2]

Each community college board of trustees is authorized to establish a number of user fees, including parking fees. User fees may not exceed the cost of the services provided and may only be charged to persons receiving the service. Parking fee revenues from workforce education programs may be pledged by a community college board of trustees as a dedicated revenue source for the repayment of debt and revenue bonds with terms not exceeding 20 years and not exceeding the useful life of the asset being financed. Community colleges must use the services of the Division of Bond Finance to issue the revenue bonds. Any bonds issued by the Division of Bond Finance must be in compliance with the State Bond Act.[3]

[1] See s. 1009.22(6), F.S.
[2] See s. 1009.22(7), F.S.
[3] See s. 1009.22(9), F.S.

Community College Student Fees

Each community college board of trustees authorized to establish a separate fee for capital improvements, technology enhancements, or equipping student buildings. The fee may not exceed 10 percent of tuition for resident students or 10 percent of the sum of tuition and out-of-state fees for nonresident students. The fee for resident students is limited to an increase of $2 per credit hour over the prior year. Capital improvement fee revenues from college credit programs must be expended to construct and equip, maintain, improve, or enhance the educational facilities of the community college. These fee revenues may be used as a dedicated source to the repayment of debt, including lease-purchase agreements with an overall term of no more than 7 years and revenue bonds, with a term not to exceed 20 years and not to exceed the useful life of the asset being financed, only for the financing or refinancing of new construction and equipment, renovation, or remodeling of facilities. The community college must use the services of the Division of Bond Finance to issue the revenue bonds. Any bonds issued by the Division of Bond Finance must be in compliance with the State Bond Act. The Division of Bond Finance may pledge fees collected by one or more community college to secure such bonds.[4]

Each community college board of trustees is authorized to establish a separate fee for technology, which may not exceed $1.80 per credit hour for resident students and no more than $5.40 per credit hour for nonresident students. Fee revenues must be expended according to technology improvement plans. Fifty percent of technology fee revenues from college credit programs may be pledged as a dedicated revenue source for the repayment of debt, including lease-purchase agreements, not to exceed the useful life of the asset being financed. Revenues from the technology fee may not be bonded.[5]

Each community college board of trustees is authorized to establish a number of user fees, including parking fees. User fees may not exceed the cost of the services provided and may only be charged to persons receiving the service. Parking fee revenues from college credit programs may be pledged as a dedicated revenue source for the repayment of debt and revenue bonds with terms not exceeding 20 years and not exceeding the useful life of the asset being financed. Community colleges must use the services of the Division of Bond Finance to issue the revenue bonds. Any bonds issued by the Division of Bond Finance must be in compliance with the State Bond Act.[6]

Powers and duties of community college boards of trustees

Community college boards of trustees may contract for the purchase, sale, lease, license, or acquisition in any manner of goods, materials, equipment, and services required by the community college. This includes purchase by installment or lease-purchase contract which may provide for the payment of interest on the unpaid portion of the purchase price and for the granting of a security interest in the items purchased.[7]

Community college boards of trustees are authorized to borrow funds and incur debt, including lease-purchase agreements and the issuance of revenues bonds as specifically authorized and only for the purposes authorized in statutory provisions governing the use of revenues from the capital

[4] See s. 1009.23(11), F.S.
[5] See s. 1009.23(10), F.S.
[6] See s. 1009.23(12), F.S.
[7] See s. 1001.64(26), F.S.

improvement fee and the parking fee collected pursuant to ss. 1009.22 and 1009.23, F.S. At the option of the board of trustees, bonds may be issued which are secured by a combination of the capital improvement fee revenues from both programs or a combination of parking fee revenues from both programs. Lease-purchase agreements may be secured by a combination of technology fees assessed from both programs.[8]

Community College Direct Support Organizations

Section 1004.70, F.S., relates to community college direct support organizations. Community college direct support organizations are organized and operated exclusively to receive, hold, invest, and administer property and to make expenditures to, or for the benefit of, a community college in this state. There are no specific statutory provisions relating to debt management for community college direct support organizations.[9]

Effect of Proposed Changes

The bill revises the authority of community college boards of trustees to enter into debt by providing requirements for short-term and long-term debt.

The bill limits the authority of community college boards of trustees to enter into short-term financing for the purchase, sale, lease, license, or acquisition of goods, materials, and services required by the community college to five years or less. The financing must be subject to an annual appropriation by the board of trustees.

A board of trustees may incur long-term debt for a term up to seven years, through the use of promissory notes, installment sales agreements, lease purchase agreements, certificates of participation, and other long-term financing arrangements backed by the capital improvement and parking fees as authorized in ss. 1009.22(6) and (9), F.S., and 1009.23(11) and (12), F.S.

The bill requires a community college board of trustees to use the Division of Bond Finance to issue revenue bonds pledged by capital improvement fees. The Division of Bond Finance is permitted to pledge the fees collected by one or more community colleges, including fees authorized under both ss. 1009.22 and 1009.23, F.S., to secure the bonds.

The bill permits a community college board of trustees to pledge parking fee revenues to debt (including promissory notes, installment sales agreements, lease-purchase agreements, certificates of participation, and other similar financing arrangements) without utilizing the services of or obtaining the approval of the Division of Bond Finance with an overall term not to exceed 20 years. The interest rate on any fixed-rate financing must be lower than the interest rate for comparable debt on the Municipal Market Data (MMD) yields listing or a nationally recognized tax-exempt benchmark interest rate index if the MMD is not available.

The bill requires a community college board of trustees to authorize all debt incurred by a direct support organization, but authorizes the board of trustees to delegate authority for approval of short-term loans and lease purchase agreements to the board of directors of the direct support organization. The terms of these agreements must be for five years or less.

The bill creates a mechanism to obtain a more favorable credit rating for the issuance of community college bonds backed by capital improvement fees. If a community college's capital improvement fees

[8] See s. 1001.64(38), F.S.

[9] See s. 1004.70, F.S.

are insufficient to service bonds pledging the revenue, the community college's legally available funds remaining in the Community College Program fund would be used to pay the debt service. The more favorable credit rating may reduce the interest rate required to attract bond purchasers, as the risk of default would be somewhat mitigated by the potential availability of additional revenue to service the debt.

C. SECTION DIRECTORY:

Section 1. Amends s. 1001.64, F.S., providing conditions for certain contracting by community college boards of trustees; authorizing board of trustees to enter into certain short-term loans and contracts and make payments subject to appropriation; authorizing boards of trustees to incur long-term debt according to specified requirements.

Section 2. Amends s. 1004.70, F.S., requiring community college boards of trustees to authorize debt incurred by direct-support organizations; authorizing delegation for approval of short-term loans and lease-purchase agreements; providing restrictions.

Section 3. Amends s. 1009.22, F.S., relating to workforce education postsecondary student fees; revising provisions relating to pledge of fee revenues to repayment of debt by community college boards of trustees; providing requirements for the request, issuance, securing, and payment of bonds; revising provisions relating to the validation of bonds; providing for limitation of actions.

Section 4. Amends s. 1009.23, F.S., relating to community college student fees; revising provisions relating to pledge of fee revenues to repayment of debt by community college boards of trustees; providing requirements for the request, issuance, securing, and payment of bonds; revising provisions relating to the validation of bonds; providing for limitation of actions.

Section 5. Amends s. 1011.84, F.S., correcting cross-references; providing for transmittal of funds for amounts required for capital improvement revenue bond debt service under certain circumstances; provding restrictions; authorizing rules.

Section 6. Provides an effective date of July 1, 2008.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:
See FISCAL COMMENTS section.

1. Revenues:

2. Expenditures:

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:
See FISCAL COMMENTS section.

1. Revenues:

2. Expenditures:

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

See FISCAL COMMENTS section.

D. FISCAL COMMENTS:

The fiscal impact of the bill is indeterminate.

The State Board of Education issues Capital Outlay and Capital Improvement Revenue Bonds on behalf of the community colleges. The Capital Outlay Bonds are secured by a pledge of the institution's portion of the State-assessed motor vehicle license tax. The Capital Improvement Revenue Bonds are secured by a pledge of the College's Capital Improvement Fee (CIF) collections. These bonds are reviewed by the Division of Bond Finance. For Fiscal Year 2006-2007, the Florida Community College System had total bonds payable of $115.2 million – Capital Outlay Bonds ($62 million) and Capital Improvement Revenue Bonds ($53.2 million).[10]

The community colleges have incurred an additional $31.7 million in long-term debt that was not reviewed by the Division of Bond Finance.[11] Section 1001.64(38), F.S., has been interpreted by some institutions to authorize community colleges to borrow funds and incur debt without the necessity of division review. Institutions report that they can obtain a better interest rate from local banks or more beneficial terms with a certificate of participation. Concerns have been expressed regarding any potential impact of long-term debt that has not been reviewed by the Division of Bond Finance.

This bill creates a mechanism whereby legally available funds remaining in the Community College Program Fund (CCPF) appropriated to a community college with insufficient capital improvement fee revenues to pay debt service are to be transferred by the Department of Education to the State Board of Administration to pay the debt service. Such a mechanism may result in the ability of community colleges to secure debt at a lower interest rate, thereby lowering the cost to finance debt. To the extent funds in the CCPF are used to pay debt service, funds available for college operations will decrease.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

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[10] Florida Community College System Long Term Liabilities Fiscal Year 2006-07

[11] *Id.*

The bill does not appear to require a city or county to expend funds or to take any action requiring the expenditure of funds.

This bill does not appear to reduce the authority that municipalities or counties have to raise revenues in the aggregate.

This bill does not appear to reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

HB 235 authorizes the Department of Education to adopt rules to allocate certain debt service liability among community colleges.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

D. STATEMENT OF THE SPONSOR

Waived by sponsor due to time constraints.

IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES

On March 18, 2008, the Committee on Postsecondary Education adopted a strike-everything amendment to HB 235. The strike-everything amendment:

- Prohibits the use of tuition, financial aid fees, the Community College Program Fund (CCPF), or other operating revenues of a community college to secure debt.
- Removes the provision of the bill that authorizes the transfer of CCPF funds to the State Board of Administration if a community college is unable to pay debt service on bonds supported by capital improvement fees.
- Requires the community college boards of trustees to use the services of the Division of Bond Finance when issuing long-term revenue bonds supported by parking fee revenues.
- Renames Daytona Beach Community College as Daytona Beach College.
- Renames Indian River Community College as Indian River College.