

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/CS/HB 499

State Universities

SPONSOR(S): State Universities and Private Colleges Appropriations Committee; State Universities & Private Colleges Policy Committee; Crisafulli

TIED BILLS:

IDEN./SIM. BILLS:

	REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
Orig. Comm.:	State Universities & Private Colleges Policy Committee	7 Y, 0 N, As CS	Thomas	Tilton
1)	State Universities & Private Colleges Appropriations Committee	7 Y, 0 N, As CS	Smith	Trexler
2)				
3)				
4)				
5)				

SUMMARY ANALYSIS

University boards of trustees are currently permitted to utilize Public Education Capital Outlay (PECO) funds for replacement of minor facilities, provided that such projects do not exceed \$1 million in cost or 10,000 gross square feet in size. CS/CS/HB 499 increases the monetary threshold for the utilization of appropriated funds for the replacement of minor facilities from \$1 million to \$2 million.

Under current law, a university may not initiate a facility enhancement project unless all private funds for planning, construction, and equipping the facility have been received and deposited in a separate university program account designed for this purpose and the state’s share for the minimum amount of funds needed to begin the project has been appropriated by the Legislature. The bill removes the requirement that the state’s share must be appropriated by the Legislature in order for the project to be initiated.

The bill also redefines the term “continuing contract” for professional services, for the purpose of a university’s contracting authority, as one in which construction costs do not exceed \$2 million or the fee for study activity does not exceed \$200,000.

The bill does not appear to have a fiscal impact on state government.

The effective date provided is upon becoming law.

HOUSE PRINCIPLES

Members are encouraged to evaluate proposed legislation in light of the following guiding principles of the House of Representatives:

- Balance the state budget.
- Create a legal and regulatory environment that fosters economic growth and job creation.
- Lower the tax burden on families and businesses.
- Reverse or restrain the growth of government.
- Promote public safety.
- Promote educational accountability, excellence, and choice.
- Foster respect for the family and for innocent human life.
- Protect Florida's natural beauty.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

Powers and Duties of University Board of Trustees

Each university board of trustees constitutes the contracting agent of the university. Universities must comply with the provisions of s. 287.055, F.S., for the procurement of professional services and may approve and execute all contracts for planning, construction, and equipment. Section 287.055(2)(g), F.S., defines "continuing contract" as a contract for professional services entered into in accordance with all the procedures of the Consultants' Competitive Negotiation Act between an agency and a firm whereby the firm provides professional services to the agency for projects in which construction costs do not exceed \$1 million, for study activity when the fee for such professional services does not exceed \$50,000, or for work of a specified nature as outlined in the contract required by the agency. For the purpose of a university's contracting authority, a "continuing contract" for professional services is one in which construction costs do not exceed \$1 million or the fee for study activity does not exceed \$100,000.¹

The universities are seeking an increase in the professional services threshold from \$100,000 to \$200,000 to parallel the construction cost increase from \$1,000,000 to \$2,000,000. The range for professional services is typically between 5% and 10%, with 6-7% being the average. The \$50,000 limit in s. 287.055, F.S., appears to set the maximum at the bottom of the range. The design and overall life-cycle of most university space is "special purpose" and, accordingly, the design costs are more expensive.²

Public Education Capital Outlay (PECO) Funds

Section 1013.64, F.S. provides for allocations from the Public Education Capital Outlay and Debt Service Trust Fund. University boards of trustees may utilize appropriated funds for replacement of minor facilities provided that such projects do not exceed \$1 million in cost or 10,000 gross square feet in size.³

Currently, universities must go through the same procurement and approval process for an \$80 million project as for a \$1.2 million project. The universities have suggested that the limit be raised from \$1

¹ Section 1001.74(2)(a), F.S.

² E-mail correspondence with the Board of Governors staff (March 13, 2009).

³ Section 1013.64(1)(h), F.S.

million to \$2 million. Most of these projects are for basic maintenance items, such as roofs, repairs to electrical systems, utility infrastructure, and the like, and could be rapidly completed, if authorized.⁴

Alec P. Courtelis University Facility Enhancement Challenge Grant Program

The Alec P. Courtelis University Facility Enhancement Challenge Grant Program assists state universities in building high priority instructional and research-related capital facilities.⁵

To be eligible to participate in the program, a university must raise a contribution equal to one-half of the total cost of a facilities construction project from private sources, which may not include any federal, state, or local government funds.⁶ Subject to legislative appropriations, the contribution will be matched by a state appropriation equal to the amount raised for the facilities construction project.⁷

A project may not be initiated unless all private funds for planning, construction, and equipping the facility have been received and deposited in a university account designated for this purpose and the state's share for the minimum amount of funds needed to begin the project has been appropriated by the Legislature.⁸ State matching funds may be appropriated in one or more fiscal years for the planning, construction, and equipping of an eligible facility.⁹

The universities have on hand private donations sufficient to complete half of each Courtelis project. The universities have initiated the planning and architectural design process, and may continue towards construction using both private and other non-state sources. The universities want assurance that expenditure of private funds for Courtelis projects will not impair the ability of the SUS to continue to request state matching funds.¹⁰

Effect of Proposed Changes

CS/CS/HB 499 increases the monetary threshold for the utilization of appropriated funds for the replacement of minor facilities from \$1 million to \$2 million.

The bill removes the requirement that the state's share for the minimum amount of funds needed to begin a project must be appropriated by the Legislature in order for a facility enhancement project to be initiated.

The bill revises the definition of "continuing contract" for professional services for the purpose of a university's contracting authority. The threshold for construction is increased from \$1 million to \$2 million. The threshold for the fee for study activity is increased from \$100,000 to \$200,000.

B. SECTION DIRECTORY:

- Section 1. Amends s. 1001.74, F.S., increasing the monetary threshold for continuing contracts for professional services.
- Section 2. Amends s. 1013.64, F.S., increasing the monetary threshold for the utilization of funds for the replacement of minor facility projects.
- Section 3. Amends s. 1013.78, F.S., conforming provisions.
- Section 4. Amends s. 1013.79, F.S., revising provisions relating to the matching and expenditure of funds under a university facility challenge grant program.
- Section 5. Provides an effective date of upon becoming law.

⁴ Board of Governors Meeting agenda materials (November 11, 2009).

⁵ Section 1013.79(2), F.S.

⁶ Section 1013.79(2) and (6), F.S.

⁷ Section 1013.79(6), F.S.

⁸ Section 1013.79(5), F.S.

⁹ *Id.*

¹⁰ Board of Governors Meeting agenda materials (November 11, 2009).

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

See FISCAL COMMENTS.

2. Expenditures:

See FISCAL COMMENTS.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

The bill provides that private funds expended for planning, construction, and equipping a facility are eligible for state matching funds but do not create a financial obligation of the state.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

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

The 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:

B. RULE-MAKING AUTHORITY:

C. DRAFTING ISSUES OR OTHER COMMENTS:

IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES

On March 18, 2009, the State Universities & Private Colleges Policy Committee adopted a Proposed Committee Substitute for HB 499 and reported the bill favorably as a Committee Substitute (CS). The differences between the CS and the bill are:

- The CS revises the definition of “continuing contract” for professional services, for the purpose of a university’s contracting authority, to increase the threshold for construction costs from \$1 million to \$2 million and to increase the threshold for the fee for study activity from \$100,000 to \$200,000.
- The CS removes the authorization for university boards of trustees to increase the Capital Improvement Trust Fund fee.

On March 24, 2009, the State Universities & Private Colleges Appropriations Committee adopted one technical amendment to CS/HB 499 and reported the bill favorably as a Committee Substitute. The technical amendment clarified that universities are authorized to use funds from private sources for site preparation and initial planning and construction.