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Florida Legislature On-Line Sunshine

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H 1793: Nonprofit Private Schools

H 1793 **GENERAL BILL/CS/CS by General Government Appropriations; Education Innovation (AEC); Wise; (CO-SPONSORS) Feeney; Putnam (Similar S 1896) Nonprofit Private Schools; redefines term "educational facility" to include property used for operation of certain nonprofit private schools; provides requirements re financing; authorizes financing under Fla. Industrial Development Financing Act. Amends 159.27, 623.13. EFFECTIVE DATE: 05/29/1998.**

03/31/97 HOUSE Filed
04/01/97 HOUSE Introduced -HJ 00368
04/07/97 HOUSE Referred to Education Innovation (AEC) -HJ 00485
05/02/97 HOUSE Carried over to 1998 Session pursuant to House Rule 96, In House Committee on Education Innovation (AEC)
12/17/97 HOUSE On Committee agenda-- Education Innovation (AEC), 01/07/98, 8:30 am, Reed Hall
01/07/98 HOUSE Comm. Action: Unanimously CS by Education Innovation (AEC)
01/30/98 HOUSE Also referred to General Government Appropriations; Now in General Government Appropriations
02/13/98 HOUSE On Committee agenda-- General Government Appropriations, 03/02/98, 12:30 pm, 214C
03/02/98 HOUSE Comm. Action:-Unanimously CS/CS by General Government Appropriations
03/03/98 HOUSE CARRIED OVER; Referred to Education Innovation (AEC); General Government Appropriations; On Committee agenda-- Education Innovation (AEC), 01/07/98, 8:30 am, Reed Hall; Comm. Action: Unanimously CS by Education Innovation (AEC) -HJ 00080; Also referred to General Government Appropriations -HJ 00067; CS read first time on 03/03/98 -HJ 00072; Now in General Government Appropriations; On Committee agenda-- General Government Appropriations, 03/02/98, 12:30 pm, 214C; Comm. Action:-Unanimously CS/CS by General Government Appropriations -HJ 00180
03/12/98 HOUSE CS read first time on 03/12/98 -HJ 00178; Pending Consent Calendar -HJ 00180
03/17/98 HOUSE Available for Consent Calendar
03/24/98 HOUSE Placed on Consent Calendar; Read second and third times -HJ 00329; CS passed; YEAS 116 NAYS 2 -HJ 00329
03/25/98 SENATE In Messages
04/01/98 SENATE Received, referred to Education; Ways and Means -SJ 00351
04/17/98 SENATE Withdrawn from Education; Ways and Means -SJ 00517; Substituted for SB 1896 -SJ 00517; Read second time -SJ 00517
04/21/98 SENATE Read third time -SJ 00741; CS passed; YEAS 40 NAYS 0 -SJ 00741; Immediately certified -SJ 00741
04/21/98 HOUSE Ordered enrolled -HJ 00961
05/14/98 Signed by Officers and presented to Governor
05/29/98 Approved by Governor; Chapter No. 98-306

BILL TEXT: ([Top](#))

hb1793 (View As: [HTML](#), [As Printed](#))
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By Representative Wise

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A bill to be entitled
An act relating to nonprofit private schools;
amending s. 159.27, F.S.; redefining the term
"educational facility" to include certain
nonprofit private schools; amending s. 623.13,
F.S.; authorizing financing under the Florida
Industrial Development Financing Act or by
industrial development authorities; providing
an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Subsection (22) of section 159.27, Florida
Statutes, is amended to read:

159.27 Definitions.--The following words and terms,
unless the context clearly indicates a different meaning,
shall have the following meanings:

(22) "Educational facility" means property, limited to
a structure suitable for use as a dormitory or other housing
facility or a dining facility, that is operated in the public
sector and used for or useful in connection with the operation
of an institution for higher education, as defined in s.
243.20(8), which offers the baccalaureate or a higher degree
and that is constructed in compliance with applicable codes as
determined by appropriate state agencies. The term includes
any property used in the operation of any nonprofit private
school that is established under chapter 617, chapter 623, or
that is described in section 501(c)(3) of the U.S. Internal
Revenue Code.

Section 2. Section 623.13, Florida Statutes, is
amended to read:

By the Committee on Education Innovation and Representative Wise

1 A bill to be entitled
 2 An act relating to nonprofit private schools;
 3 amending s. 159.27, F.S.; redefining the term
 4 "educational facility" to include property used
 5 for the operation of certain nonprofit private
 6 schools; providing requirements relating to
 7 financing; amending s. 623.13, F.S.;
 8 authorizing financing under the Florida
 9 Industrial Development Financing Act or by
 10 industrial development authorities; providing
 11 an effective date.

12
 13 Be It Enacted by the Legislature of the State of Florida:

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 15 Section 1. Subsection (22) of section 159.27, Florida
 16 Statutes, is amended to read:

17 159.27 Definitions.--The following words and terms,
 18 unless the context clearly indicates a different meaning,
 19 shall have the following meanings:

20 (22) "Educational facility" means property, limited to
 21 a structure suitable for use as a dormitory or other housing
 22 facility or a dining facility, that is operated in the public
 23 sector and used for or useful in connection with the operation
 24 of an institution for higher education, as defined in s.
 25 243.20(8), which offers the baccalaureate or a higher degree
 26 and that is constructed in compliance with applicable codes as
 27 determined by appropriate state agencies. In addition,
 28 "educational facility" means any property, without limitation,
 29 used for or useful in the operation of any nonprofit private
 30 preschool, kindergarten, or primary or secondary school that
 31 is established under chapter 617 or chapter 623, or that is

1 owned or operated by an organization described in section
2 501(c) (3) of the U.S. Internal Revenue Code; provided,
3 however, that the requirements of this part for the financing
4 of projects through local agencies shall also apply to such
5 schools and that bonds issued under the provisions of this
6 part for such schools shall not be deemed to constitute a
7 debt, liability, or obligation of the state or any political
8 subdivision thereof, or a pledge of the faith and credit of
9 the state or of any such political subdivision, but shall be
10 payable solely from the revenues provided therefor.

11 Section 2. Section 623.13, Florida Statutes, is
12 amended to read:

13 623.13 Administration, supervision, and operation by
14 private persons or entities.--Any corporation organized and
15 existing under this act shall be administered, supervised,
16 operated, financed, and controlled exclusively by private
17 persons and private entities and their funds. All persons
18 while acting in any public official capacity are hereby
19 specifically prohibited from engaging in any manner in such
20 administration, supervision, operation, financing, and control
21 of the affairs of such corporation. This section does not
22 prohibit the financing of educational facilities as provided
23 in part II or part III of chapter 159.

24 Section 3. This act shall take effect upon becoming a
25 law.

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By the Committees on General Government Appropriations,
 Education Innovation and Representatives Wise and Feeney

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 2 An act relating to nonprofit private schools;
 3 amending s. 159.27, F.S.; redefining the term
 4 "educational facility" to include property used
 5 for the operation of certain nonprofit private
 6 schools; providing requirements relating to
 7 financing; amending s. 623.13, F.S.;
 8 authorizing financing under the Florida
 9 Industrial Development Financing Act; providing
 10 an effective date.

11
 12 Be It Enacted by the Legislature of the State of Florida:

13
 14 Section 1. Subsection (22) of section 159.27, Florida
 15 Statutes, is amended to read:

16 159.27 Definitions.--The following words and terms,
 17 unless the context clearly indicates a different meaning,
 18 shall have the following meanings:

19 (5) "Project" means any capital project comprising an
 20 industrial or manufacturing plant, a research and development
 21 park, an agricultural processing or storage facility, a
 22 warehousing or distribution facility, a headquarters facility,
 23 a tourism facility, a convention or trade show facility, an
 24 urban parking facility, a trade center, a health care
 25 facility, an educational facility, a correctional or detention
 26 facility, a motion picture production facility, a preservation
 27 or rehabilitation of a certified historic structure, an
 28 airport or port facility, a commercial project in an
 29 enterprise zone, a pollution-control facility, a hazardous or
 30 solid waste facility, a social service center, or a mass
 31 commuting facility, including one or more buildings and other

1 structures, whether or not on the same site or sites; any
2 rehabilitation, improvement, renovation, or enlargement of, or
3 any addition to, any buildings or structures for use as a
4 factory, a mill, a processing plant, an assembly plant, a
5 fabricating plant, an industrial distribution center, a
6 repair, overhaul, or service facility, a test facility, an
7 agricultural processing or storage facility, a warehousing or
8 distribution facility, a headquarters facility, a tourism
9 facility, a convention or trade show facility, an urban
10 parking facility, a trade center, a health care facility, an
11 educational facility, a correctional or detention facility, a
12 motion picture production facility, a preservation or
13 rehabilitation of a certified historic structure, an airport
14 or port facility, a commercial project in an enterprise zone,
15 a pollution-control facility, a hazardous or solid waste
16 facility, a social service center, or a mass commuting
17 facility, and other facilities, including research and
18 development facilities, for manufacturing, processing,
19 assembling, repairing, overhauling, servicing, testing, or
20 handling of any products or commodities embraced in any
21 industrial or manufacturing plant, in connection with the
22 purposes of a research and development park, or other
23 facilities for or used in connection with an agricultural
24 processing or storage facility, a warehousing or distribution
25 facility, a headquarters facility, a tourism facility, a
26 convention or trade show facility, an urban parking facility,
27 a trade center, a health care facility, an educational
28 facility, a correctional or detention facility, a motion
29 picture production facility, a preservation or rehabilitation
30 of a certified historic structure, an airport or port
31 facility, or a commercial project in an enterprise zone or for

1 controlling air or water pollution or for the disposal,
2 processing, conversion, or reclamation of hazardous or solid
3 waste, a social service center, or a mass commuting facility;
4 and including also the sites thereof and other rights in land
5 therefor whether improved or unimproved, machinery, equipment,
6 site preparation and landscaping, and all appurtenances and
7 facilities incidental thereto, such as warehouses, utilities,
8 access roads, railroad sidings, truck docking and similar
9 facilities, parking facilities, office or storage or training
10 facilities, public lodging and restaurant facilities, dockage,
11 wharfage, solar energy facilities, and other improvements
12 necessary or convenient for any manufacturing or industrial
13 plant, research and development park, agricultural processing
14 or storage facility, warehousing or distribution facility,
15 tourism facility, convention or trade show facility, urban
16 parking facility, trade center, health care facility,
17 educational facility, a correctional or detention facility,
18 motion picture production facility, preservation or
19 rehabilitation of a certified historic structure, airport or
20 port facility, commercial project in an enterprise zone,
21 pollution-control facility, hazardous or solid waste facility,
22 social service center, or a mass commuting facility and any
23 one or more combinations of the foregoing.

24 (22) "Educational facility" means:

25 (a) Property, limited to a structure suitable for use
26 as a dormitory or other housing facility or a dining facility,
27 that is operated in the public sector and used for or useful
28 in connection with the operation of an institution for higher
29 education, as defined in s. 243.20(8), which offers the
30 baccalaureate or a higher degree and that is constructed in
31

1 | compliance with applicable codes as determined by appropriate
2 | state agencies.
3 | (b) Property that comprises the buildings and
4 | equipment, structures, and special education use areas that
5 | are built, installed, or established to serve primarily the
6 | educational purposes of operating any nonprofit private
7 | preschool, kindergarten, elementary school, middle school, or
8 | high school that is established under chapter 617 or chapter
9 | 623, or that is owned or operated by an organization described
10 | in s. 501(c)(3) of the United States Internal Revenue Code.
11 | The requirements of this part for the financing of projects
12 | through local agencies shall also apply to such schools.
13 | Bonds issued under the provisions of this part for such
14 | schools shall not be deemed to constitute a debt, liability,
15 | or obligation of the state or any political subdivision
16 | thereof, or a pledge of the faith and credit of the state or
17 | of any such political subdivision, but shall be payable solely
18 | from the revenues provided therefor.

19 | Section 2. Section 623.13, Florida Statutes, is
20 | amended to read:

21 | 623.13 Administration, supervision, and operation by
22 | private persons or entities.--Any corporation organized and
23 | existing under this act shall be administered, supervised,
24 | operated, financed, and controlled exclusively by private
25 | persons and private entities and their funds. All persons
26 | while acting in any public official capacity are hereby
27 | specifically prohibited from engaging in any manner in such
28 | administration, supervision, operation, financing, and control
29 | of the affairs of such corporation. This section does not
30 | prohibit the financing of educational facilities as provided
31 | in part II of chapter 159.

1 Section 3. This act shall take effect upon becoming a
2 law.
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STORAGE NAME: h1793s2.gg
DATE: March 6, 1998

**HOUSE OF REPRESENTATIVES
AS REVISED BY THE COMMITTEE ON
GENERAL GOVERNMENT APPROPRIATIONS
BILL RESEARCH & ECONOMIC IMPACT STATEMENT**

BILL #: CS/CS/HB 1793
RELATING TO: Nonprofit Private Schools
SPONSOR(S): Committees on General Government Appropriations and Education Innovation,
and Representative Wise and others

COMPANION BILL(S): SB 1896 (s)

ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:

- (1) EDUCATION INNOVATION YEAS 8 NAYS 0
 - (2) GENERAL GOVERNMENT APPROPRIATIONS YEAS 8 NAYS 0
 - (3)
 - (4)
 - (5)
-

I. SUMMARY.

This bill amends the *Florida Industrial Development Financing Act* and the *Private School Corporation Law of 1959* to allow the issuance of bonds to help finance the cost of purchase or construction of property used for, or useful in, the operation of any nonprofit private school established pursuant to Florida Statute or the United States Internal Revenue Code

Nonprofit private preschool, kindergarten, primary and secondary schools will be able to access the federal tax-exempt bond market through Florida industrial development authorities. The structure would be the same as private corporations use in industrial development bond financing, and as nonprofit private higher education borrowers use in educational facilities authorities

The bill does not authorize use of public funds. The bill specifically precludes the state, a local agency/authority, or any political subdivision of the state, from pledging its faith and credit to support debt issued through industrial development authorities. Individual borrowers are the only source of bond repayment on their individual debt issues.

This bill has no fiscal impact on state revenues

II. SUBSTANTIVE RESEARCH:

A. PRESENT SITUATION:

Chapter 159, Part II, F.S., contains the *Florida Industrial Development Financing Act*. The purpose of the act is to enhance economic activity in the state by attracting manufacturing development, business enterprise management, and other activities conducive to economic promotion in order to provide a stronger, more balanced, and stable economy in the state, while providing through pollution control and otherwise for the health and safety of the people. The act allows for the issuance of bonds by local governmental bodies for projects deemed to promote this purpose. The types of projects include.

- research and development parks
- agricultural processing or storage facilities
- warehousing or distribution facilities
- headquarters facilities
- tourism facilities
- public lodging or restaurant facilities
- convention or trade show facilities
- urban parking facilities
- trade centers
- health care facilities
- airport or port facilities
- commercial project in an enterprise zones
- motion picture production facilities
- preservation or rehabilitation of a certified historic structures
- educational facilities
- mass commuting facilities
- social service centers

Subsection 159.27(22), F.S., specifically defines an "educational facility" as ". . . a structure suitable for use as a dormitory or other housing facility or a dining facility, that is operated in the public sector and used for or useful in connection with the operation of an institution for higher education ."

The act allows local governments, or bonding authorities formed by such governments, to issue bonds to finance the cost of the projects listed above Pursuant to section 159.31, F S., bonds issued pursuant to the act are exempt from state taxation

A number of states allow nonprofit private primary and secondary schools to use issuing authorities to access the tax-exempt market; these states draw no distinction between nonprofit private higher education and primary-secondary schools. Some states where private primary and secondary schools have actually issued debt through local authorities include: Connecticut, Georgia, Illinois, Indiana, Massachusetts, Michigan, Minnesota, Missouri, New Hampshire, New Jersey, New Mexico, New York, Oklahoma, Pennsylvania, and Tennessee.

Chapter 617, F S., the *Florida Not For Profit Corporation Act*, describes the Florida law governing the not-for-profit corporations conducting affairs in the state Corporations may be organized under this act for any lawful purpose or purposes not for pecuniary

profit The chapter outlines the filing requirements, fees and powers of such corporations

Chapter 623, F.S., the *Private School Corporation Law of 1959*, allows 25 or more adult Floridians to form a private school corporation. The chapter describes specific steps that must be taken, and delineates that a private school corporation shall be a private corporation for charitable and benevolent purposes. Section 623.09, F.S., provides that such corporations are exempt from taxation as provided by Florida law. Section 623.10, F.S., grants such corporations specific powers and duties, including the ability to purchase real and tangible personal property, and to issue notes of indebtedness. Section 623.13, F.S., delineates that any corporation formed pursuant to chapter 623, F.S., must be administered, supervised, operated, financed, and controlled exclusively by private persons and their funds. Public officials are prohibited from engaging in any such affairs of the corporation.

B. EFFECT OF PROPOSED CHANGES

This bill amends the *Florida Industrial Development Financing Act* and the *Private School Corporation Law of 1959* to allow the issuance of bonds to help finance the cost of purchase or construction of property used for or useful in the operation of any nonprofit private school established pursuant to chapters 617 or 623, F.S., or section 501(c)(3) of the United States Internal Revenue Code.

Nonprofit private preschool, kindergarten, primary and secondary schools will be able to access the federal tax-exempt bond market through Florida industrial development authorities. The structure would be the same as private corporations use in industrial development bond financing, and as nonprofit private higher education borrowers use in educational facilities authorities.

There is no use of public funds. The bill specifically precludes the state, a local agency/authority, or any political subdivision of the state, from pledging its faith and credit to support debt issued through industrial development authorities. Individual borrowers are the only source of bond repayment on their individual debt issues

C. APPLICATION OF PRINCIPLES

1 Less Government:

a. Does the bill create, increase or reduce, either directly or indirectly:

(1) any authority to make rules or adjudicate disputes?

N/A

(2) any new responsibilities, obligations or work for other governmental or private organizations or individuals?

The bill may increase obligations of private organizations who choose to utilize the authority granted in the bill to issue bonds

(3) any entitlement to a government service or benefit?

Nonprofit private schools meeting certain criteria will be allowed to issue bonds to help with costs of property used in the school's operation
Tax-exempt financing will be available as an option to these schools without the use of public funds.

b If an agency or program is eliminated or reduced:

(1) what responsibilities, costs and powers are passed on to another program, agency, level of government, or private entity?

N/A

(2) what is the cost of such responsibility at the new level/agency?

N/A

(3) how is the new agency accountable to the people governed?

N/A

2 Lower Taxes:

a. Does the bill increase anyone's taxes?

N/A

b. Does the bill require or authorize an increase in any fees?

N/A

c. Does the bill reduce total taxes, both rates and revenues?

N/A

d. Does the bill reduce total fees, both rates and revenues?

N/A

e. Does the bill authorize any fee or tax increase by any local government?

N/A

3 Personal Responsibility:

- a. Does the bill reduce or eliminate an entitlement to government services or subsidy?

No.

- b. Do the beneficiaries of the legislation directly pay any portion of the cost of implementation and operation?

Yes. Nonprofit private schools pay the cost of utilizing the bonding option provided for in the bill.

4. Individual Freedom:

- a Does the bill increase the allowable options of individuals or private organizations/associations to conduct their own affairs?

Nonprofit private schools are given an additional financing option for property through the issuance of bonds under the provisions of the Florida Industrial Development Financing Act.

- b. Does the bill prohibit, or create new government interference with, any presently lawful activity?

No

5. Family Empowerment:

- a. If the bill purports to provide services to families or children:

(1) Who evaluates the family's needs?

N/A

(2) Who makes the decisions?

N/A

(3) Are private alternatives permitted?

N/A

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(4) Are families required to participate in a program?

N/A

(5) Are families penalized for not participating in a program?

N/A

b Does the bill directly affect the legal rights and obligations between family members?

N/A

c. If the bill creates or changes a program providing services to families or children, in which of the following does the bill vest control of the program, either through direct participation or appointment authority:

(1) parents and guardians?

N/A

(2) service providers?

N/A

(3) government employees/agencies?

N/A

D. STATUTE(S) AFFECTED:

Amends sections 159.27 and 623.13, F.S.

E. SECTION-BY-SECTION RESEARCH.

Section 1: Amends subsection 159 27(22), F.S., to revise the definition for “educational facility” to include property that comprises the buildings and equipment, structures, and special education use areas that are built, installed, or established to serve primarily the education purposes of operating any nonprofit private preschool, kindergarden, elementary school, middle school, or high school that is established under chapter 617 or chapter 623, F.S., or that is owned or operated by an organization described in section 501(c)(3) of the United States Internal Revenue Code. Also states that bonds issued under this definition shall not be deemed to constitute a debt, liability, or obligation of the state or any political subdivision of the state, or a pledge of the faith and credit of the state or its political subdivisions.

Section 2: Amends section 623.13, F S , to allow the financing of educational facilities under the Florida Industrial Development Financing Act found in part II of chapter 159, F.S.

Section 3: Provides that the act shall take effect upon becoming a law.

III. FISCAL RESEARCH & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring Effects.

N/A

2. Recurring Effects:

N/A

3. Long Run Effects Other Than Normal Growth

N/A

4. Total Revenues and Expenditures

This bill requires no use of public funds. The bill specifically precludes the state, a local agency/authority, or any political subdivision of the state from pledging its faith and credit to support debt issued through industrial development authorities

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

None.

2. Recurring Effects:

None

3. Long Run Effects Other Than Normal Growth:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs

Individual borrowers are the only source of bond repayments on their individual debt issues.

2 Direct Private Sector Benefits

Private primary and secondary education providers benefit by having access to low-cost tax-exempt debt, a form of federal subsidy.

3. Effects on Competition, Private Enterprise and Employment Markets:

This bill does not use any bond issuance capacity reserved for for-profit manufacturing corporations.

D FISCAL COMMENTS:

None.

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

This bill does not require counties or municipalities to spend funds or to take an action requiring the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

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

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

This bill does not reduce the percentage of a state tax shared with counties or municipalities

V COMMENTS:

None.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES

The House Committee on General Government Appropriations adopted one amendment that clarified the definition of "educational facility" as it relates to the *Florida Industrial Development Financing Act*. The amendment was incorporated into CS/HB 1793 resulting in CS/CS/HB 1793 which is the subject of this Bill Research & Economic Impact Statement.

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VII SIGNATURES:

COMMITTEE ON EDUCATION INNOVATION
Prepared by:

Legislative Research Director:

Quida J. Ashworth

Peter C. Doherty

AS REVISED BY THE COMMITTEE ON GENERAL GOVERNMENT APPROPRIATIONS
Prepared by:

Legislative Research Director:

Jenny Underwood Dietzel

Cynthia Kelly

ENROLLED

1998 Legislature

CS/CS/HB 1793

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An act relating to nonprofit private schools;
amending s. 159.27, F.S.; redefining the term
"educational facility" to include property used
for the operation of certain nonprofit private
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financing; amending s. 623.13, F.S.;
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warehousing or distribution facility, a headquarters facility,
a tourism facility, a convention or trade show facility, an
urban parking facility, a trade center, a health care
facility, an educational facility, a correctional or detention
facility, a motion picture production facility, a preservation
or rehabilitation of a certified historic structure, an
airport or port facility, a commercial project in an
enterprise zone, a pollution-control facility, a hazardous or
solid waste facility, a social service center, or a mass
commuting facility, including one or more buildings and other

1 structures, whether or not on the same site or sites; any
2 rehabilitation, improvement, renovation, or enlargement of, or
3 any addition to, any buildings or structures for use as a
4 factory, a mill, a processing plant, an assembly plant, a
5 fabricating plant, an industrial distribution center, a
6 repair, overhaul, or service facility, a test facility, an
7 agricultural processing or storage facility, a warehousing or
8 distribution facility, a headquarters facility, a tourism
9 facility, a convention or trade show facility, an urban
10 parking facility, a trade center, a health care facility, an
11 educational facility, a correctional or detention facility, a
12 motion picture production facility, a preservation or
13 rehabilitation of a certified historic structure, an airport
14 or port facility, a commercial project in an enterprise zone,
15 a pollution-control facility, a hazardous or solid waste
16 facility, a social service center, or a mass commuting
17 facility, and other facilities, including research and
18 development facilities, for manufacturing, processing,
19 assembling, repairing, overhauling, servicing, testing, or
20 handling of any products or commodities embraced in any
21 industrial or manufacturing plant, in connection with the
22 purposes of a research and development park, or other
23 facilities for or used in connection with an agricultural
24 processing or storage facility, a warehousing or distribution
25 facility, a headquarters facility, a tourism facility, a
26 convention or trade show facility, an urban parking facility,
27 a trade center, a health care facility, an educational
28 facility, a correctional or detention facility, a motion
29 picture production facility, a preservation or rehabilitation
30 of a certified historic structure, an airport or port
31 facility, or a commercial project in an enterprise zone or for

1 controlling air or water pollution or for the disposal,
2 processing, conversion, or reclamation of hazardous or solid
3 waste, a social service center, or a mass commuting facility;
4 and including also the sites thereof and other rights in land
5 therefor whether improved or unimproved, machinery, equipment,
6 site preparation and landscaping, and all appurtenances and
7 facilities incidental thereto, such as warehouses, utilities,
8 access roads, railroad sidings, truck docking and similar
9 facilities, parking facilities, office or storage or training
10 facilities, public lodging and restaurant facilities, dockage,
11 wharfage, solar energy facilities, and other improvements
12 necessary or convenient for any manufacturing or industrial
13 plant, research and development park, agricultural processing
14 or storage facility, warehousing or distribution facility,
15 tourism facility, convention or trade show facility, urban
16 parking facility, trade center, health care facility,
17 educational facility, a correctional or detention facility,
18 motion picture production facility, preservation or
19 rehabilitation of a certified historic structure, airport or
20 port facility, commercial project in an enterprise zone,
21 pollution-control facility, hazardous or solid waste facility,
22 social service center, or a mass commuting facility and any
23 one or more combinations of the foregoing.

24 (22) "Educational facility" means:

25 (a) Property, limited to a structure suitable for use
26 as a dormitory or other housing facility or a dining facility,
27 that is operated in the public sector and used for or useful
28 in connection with the operation of an institution for higher
29 education, as defined in s. 243.20(8), which offers the
30 baccalaureate or a higher degree and that is constructed in
31

1 compliance with applicable codes as determined by appropriate
2 state agencies.

3 (b) Property that comprises the buildings and
4 equipment, structures, and special education use areas that
5 are built, installed, or established to serve primarily the
6 educational purposes of operating any nonprofit private
7 preschool, kindergarten, elementary school, middle school, or
8 high school that is established under chapter 617 or chapter
9 623, or that is owned or operated by an organization described
10 in s. 501(c)(3) of the United States Internal Revenue Code.
11 The requirements of this part for the financing of projects
12 through local agencies shall also apply to such schools.
13 Bonds issued under the provisions of this part for such
14 schools shall not be deemed to constitute a debt, liability,
15 or obligation of the state or any political subdivision
16 thereof, or a pledge of the faith and credit of the state or
17 of any such political subdivision, but shall be payable solely
18 from the revenues provided therefor.

19 Section 2. Section 623.13, Florida Statutes, is
20 amended to read:

21 623.13 Administration, supervision, and operation by
22 private persons or entities.--Any corporation organized and
23 existing under this act shall be administered, supervised,
24 operated, financed, and controlled exclusively by private
25 persons and private entities and their funds. All persons
26 while acting in any public official capacity are hereby
27 specifically prohibited from engaging in any manner in such
28 administration, supervision, operation, financing, and control
29 of the affairs of such corporation. This section does not
30 prohibit the financing of educational facilities as provided
31 in part II of chapter 159.

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Section 3. This act shall take effect upon becoming a law.

Culp	Healey	Miller	Silver
Dawson-White	Heyman	Minton	Sindler
Dennis	Hill	Morrone	Smith
Diaz de la Portilla	Horan	Morse	Spratt
Dockery	Jacobs	Murman	Stabins
Edwards	Jones	Ogles	Stafford
Effman	Kelly	Peaden	Starks
Eggelletion	King	Posey	Sublette
Fasano	Kosmas	Prewitt, D	Tamargo
Feeney	Lacasa	Pruitt, K	Thrasher
Fischer	Lawson	Putnam	Tobin
Flanagan	Lippman	Rayson	Turnbull
Frankel	Littlefield	Reddick	Valdes
Fuller	Livingston	Ritchie	Villalobos
Futch	Logan	Ritter	Wallace
Garcia	Lynn	Roberts-Burke	Warner
Gay	Mackenzie	Rodriguez-Chomat	Wasserman Schultz
Goode	Mackey	Rojas	Westbrook
Gotthieb	Maygarden	Safley	Wiles
Greene	Meek	Sanderson	Wise
Hafner	Melvin	Saunders	Ziebarth
Harrington	Merchant	Sembler	

Villalobos	Warner	Westbrook	Wise
Wallace	Wasserman Schultz	Wiles	Ziebarth
Nays—2			
Bloom	Prewitt, D		

So the bill passed and was certified to the Senate

CS/HB 1985—A bill to be entitled An act relating to human rights, amending s 402 165, F S., redesignating the Statewide Human Rights Advocacy Committee as the Statewide Human Rights Advocacy Council, revising membership of the statewide council, increasing the term of appointment to the statewide council, amending s 402 166, F S., redesignating the district human rights advocacy committees as the local human rights advocacy councils, providing for additional local councils to be established, increasing the term of appointment to a local council, providing for appointing a vice chairperson to each local council, providing for local councils to monitor the activities of, and investigate complaints against, the Department of Children and Family Services, amending s 402 167, F S., revising provisions to reflect the redesignation of the human rights advocacy committees as human rights advocacy councils, amending ss 393 13, 394 459, 394.4595, 394 4597, 394 4598, 394 4599, 394 4615, 400 0067, 400 0089, 400 419, 400 428, 415 1034, 415 104, 415 1055, 415 1056, 415 106, 415 107, 415 501, 415 505, and 415 51, F S., conforming terminology to changes made by the act, providing an effective date

—was read the second time by title On motion by Rep Brennan, the rules were suspended and the bill was read the third time by title On passage, the vote was

Yeas—119

The Chair	Crow	King	Roberts-Burke
Albright	Culp	Kosmas	Rodriguez-Chomat
Alexander	Dawson-White	Lacasa	Rojas
Andrews	Dennis	Lawson	Safley
Argenziano	Diaz de la Portilla	Lippman	Sanderson
Arnall	Dockery	Littlefield	Saunders
Arnold	Edwards	Livingston	Sembler
Bainter	Effman	Logan	Silver
Ball	Eggelletion	Lynn	Sindler
Barreiro	Fasano	Mackenzie	Smith
Betancourt	Feeney	Mackey	Spratt
Bitner	Fischer	Maygarden	Stabins
Bloom	Flanagan	Meek	Stafford
Boyd	Frankel	Melvin	Starks
Bradley	Fuller	Merchant	Sublette
Brennan	Futch	Mitler	Tamargo
Bronson	Garcia	Minton	Thrasher
Brooks	Gay	Morrone	Tobin
Brown	Goode	Morse	Trovillion
Bullard	Gotthieb	Murman	Turnbull
Burroughs	Greene	Ogles	Valdes
Bush	Hafner	Peaden	Villalobos
Carlton	Harrington	Posey	Wallace
Casey	Healey	Prewitt, D	Warner
Chestnut	Heyman	Pruitt, K	Wasserman Schultz
Clemons	Hill	Putnam	Westbrook
Constantine	Horan	Rayson	Wiles
Cosgrove	Jacobs	Reddick	Wise
Crady	Jones	Ritchie	Ziebarth
Crist	Kelly	Ritter	

Nays—None

So the bill passed and was certified to the Senate

CS/HB 3007—A bill to be entitled An act relating to alcohol and other substance abuse testing of a delinquent child, amending s 985 231, F S., relating to powers of disposition in delinquency cases, providing that the court may order a delinquent child placed in an community control or aftercare program to submit to random testing for alcohol or controlled

Nays—None

Votes after roll call

Yeas—Trovillion

So the bill passed, as amended, and was certified to the Senate after engrossment

CS/CS/HB 1793—A bill to be entitled An act relating to nonprofit private schools, amending s. 159 27, F S., redefining the term "educational facility" to include property used for the operation of certain nonprofit private schools; providing requirements relating to financing; amending s 623 13, F S., authorizing financing under the Florida Industrial Development Financing Act, providing an effective date

—was read the second time by title On motion by Rep Wise, the rules were suspended and the bill was read the third time by title On passage, the vote was

Yeas—116

The Chair	Crady	Hill	Pruitt, K
Albright	Crist	Horan	Putnam
Alexander	Crow	Jacobs	Rayson
Andrews	Culp	Jones	Reddick
Argenziano	Dawson-White	Kelly	Ritchie
Arnall	Dennis	King	Ritter
Arnold	Diaz de la Portilla	Kosmas	Roberts-Burke
Bainter	Dockery	Lacasa	Rodriguez-Chomat
Ball	Edwards	Lippman	Rojas
Barreiro	Effman	Littlefield	Safley
Betancourt	Eggelletion	Livingston	Sanderson
Bitner	Fasano	Logan	Saunders
Boyd	Feeney	Lynn	Sembler
Bradley	Fischer	Mackenzie	Silver
Brennan	Flanagan	Mackey	Sindler
Bronson	Frankel	Maygarden	Smith
Brooks	Fuller	Meek	Spratt
Brown	Futch	Melvin	Stabins
Bullard	Garcia	Merchant	Stafford
Burroughs	Gay	Miller	Starks
Bush	Goode	Minton	Sublette
Byrd	Gotthieb	Morrone	Tamargo
Carlton	Greene	Morse	Thrasher
Casey	Hafner	Murman	Tobin
Chestnut	Harrington	Ogles	Trovillion
Clemons	Healey	Peaden	Turnbull
Constantine	Heyman	Posey	Valdes

Amendment-1 (with title amendment)—On page 5, between lines 3 and 4, insert.

Section 3 *The sum of \$45,000 is appropriated from the General Revenue Fund to the Southwest Florida Water Management District for the purpose of paying administrative, per diem, and travel expenses of the Lake Panasoffee Restoration Council*

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 1, line 8, after the semicolon (;) insert: providing an appropriation;

Pursuant to Rule 4 19, CS for SB 592 as amended was ordered engrossed and then placed on the calendar of Bills on Third Reading

On motion by Senator McKay, the rules were waived and the Senate reverted to—

MATTERS ON RECONSIDERATION

The motion by Senator McKay that the Senate reconsider the vote by which—

CS for SB 492—A bill to be entitled An act relating to public notice requirements; amending s. 170.07, F.S.; revising the time for providing written notice of assessment to property owners; amending s. 194.032, F.S., revising the time in which a value adjustment board hearing must be held; revising the time for notice to a petitioner of the scheduled time of appearance before the board; providing an effective date.

—passed April 16 was taken up and the motion was adopted

Pending further consideration of CS for SB 492, on motion by Senator McKay, by two-thirds vote HB 1555 was withdrawn from the Committees on Community Affairs; and Ways and Means.

On motion by Senator McKay, by two-thirds vote—

HB 1555—A bill to be entitled An act relating to public notice requirements; amending s. 170.07, F.S.; revising the time for providing written notice of assessment for municipal improvements to property owners, amending s. 194.032, F.S.; revising the time period during which a value adjustment board hearing may be held; revising the time for notice to a petitioner of the scheduled time of appearance before the board, providing an effective date

—a companion measure, was substituted for CS for SB 492 and by two-thirds vote read the second time by title. On motions by Senator McKay, by two-thirds vote HB 1555 was read the third time by title, passed and immediately certified to the House. The vote on passage was:

Yeas—37

Bankhead	Diaz-Balart	Horne	Ostalciewicz
Bronson	Dudley	Kirkpatrick	Rossin
Brown-Waite	Dyer	Klein	Scott
Burt	Forman	Kurth	Sullivan
Campbell	Geller	Latvala	Thomas
Casas	Grant	Laurent	Turner
Childers	Gutman	Lee	Williams
Clary	Hargrett	McKay	
Cowin	Harris	Meadows	
Crist	Holzendorf	Myers	

Nays—None

On motion by Senator Campbell—

CS for SB 1584—A bill to be entitled An act relating to health maintenance organizations, creating s. 641.3155, F.S., prescribing time for paying claims for services or goods by a provider; providing procedures for denying or contesting a claim, providing time limitations, providing notice, providing method for making payments, denying or contesting a claim, and providing notice, providing interest on overdue payment of

claim; providing for a waiver of a health maintenance organization's rights under a provider contract and consequences for failure of an organization to comply with the provisions of the act, providing an effective date

—was read the second time by title

Pursuant to Rule 4 19, CS for SB 1584 was placed on the calendar of Bills on Third Reading.

On motion by Senator Scott—

SB 1896—A bill to be entitled An act relating to nonprofit private schools, amending s. 159.27, F.S., redefining the term "educational facility" to include property used for the operation of certain nonprofit private schools; providing requirements relating to financing, amending s. 623.13, F.S.; authorizing financing under the Florida Industrial Development Financing Act or by industrial development authorities, providing an effective date.

—was read the second time by title

An amendment was considered and adopted to conform SB 1896 to CS for CS for HB 1793

Pending further consideration of SB 1896 as amended, on motion by Senator Scott, by two-thirds vote CS for CS for HB 1793 was withdrawn from the Committees on Education; and Ways and Means.

On motion by Senator Scott—

CS for CS for HB 1793—A bill to be entitled An act relating to nonprofit private schools, amending s. 159.27, F.S.; redefining the term "educational facility" to include property used for the operation of certain nonprofit private schools, providing requirements relating to financing, amending s. 623.13, F.S., authorizing financing under the Florida Industrial Development Financing Act, providing an effective date

—a companion measure, was substituted for SB 1896 as amended and read the second time by title.

Pursuant to Rule 4 19, CS for CS for HB 1793 was placed on the calendar of Bills on Third Reading.

SB 564—A bill to be entitled An act relating to higher education; amending s. 240.299, F.S., providing reporting requirements for university direct-support organizations; amending s. 240.311, F.S., relating to rules of the State Board of Community Colleges, requiring a community college district board of trustees to annually evaluate the college president, amending s. 240.324, F.S., providing an additional requirement for the accountability plan for community colleges; amending ss. 240.331, 240.3315, F.S., prescribing membership of boards of directors and executive committees of community college direct-support organizations and statewide community college direct-support organizations; restricting activities of such direct-support organizations, providing reporting requirements for such organizations; amending s. 240.3335, F.S., removing the authority of a board of directors of a center of technology innovation to acquire, lease, or sublease property; amending s. 240.363, F.S.; providing restrictions upon the transfer of funds to a direct-support organization, providing an effective date

—was read the second time by title

The Committee on Education recommended the following amendments which were moved by Senator Kurth and adopted

Amendment 1—On page 4, line 5, delete "statewide,"

Amendment 2—On page 5, lines 4-14, delete those lines (Redesignate subsequent paragraphs)

Senator Grant moved the following amendment:

Amendment 3 (with title amendment)—On page 9, line 30 through page 10, line 17, delete those lines and redesignate subsequent section.

for denying or contesting a claim; providing time limitations; providing notice; providing method for making payments, denying or contesting a claim, and providing notice, providing interest on overdue payment of claim, providing for a waiver of a health maintenance organization's rights under a provider contract and consequences for failure of an organization to comply with the provisions of the act, providing an effective date.

—was read the third time by title

On motions by Senator Campbell, CS for SB 1584 was passed and by two-thirds vote immediately certified to the House. The vote on passage was

Yeas—39

Madam President	Crist	Horne	Myers
Bankhead	Diaz-Balart	Jones	Ostalkiewicz
Bronson	Dudley	Kirkpatrick	Rossin
Brown-Waite	Dyer	Klein	Scott
Burt	Forman	Kurth	Silver
Campbell	Geller	Latvala	Sullivan
Casas	Grant	Laurent	Thomas
Childers	Gutman	Lee	Turner
Clary	Harris	McKay	Williams
Cowin	Holzendorf	Meadows	

Nays—None

CS for CS for HB 1793—A bill to be entitled An act relating to nonprofit private schools, amending s. 159.27, F.S., redefining the term "educational facility" to include property used for the operation of certain nonprofit private schools; providing requirements relating to financing; amending s. 623 13, F.S., authorizing financing under the Florida Industrial Development Financing Act; providing an effective date.

—was read the third time by title.

On motions by Senator Scott, CS for CS for HB 1793 was passed and by two-thirds vote immediately certified to the House. The vote on passage was:

Yeas—40

Madam President	Crist	Holzendorf	Meadows
Bankhead	Diaz-Balart	Horne	Myers
Bronson	Dudley	Jones	Ostalkiewicz
Brown-Waite	Dyer	Kirkpatrick	Rossin
Burt	Forman	Klein	Scott
Campbell	Geller	Kurth	Silver
Casas	Grant	Latvala	Sullivan
Childers	Gutman	Laurent	Thomas
Clary	Hargrett	Lee	Turner
Cowin	Harris	McKay	Williams

Nays—None

HB 1893—A bill to be entitled An act relating to designation of state buildings; designating a state veterans' nursing home in Land O' Lakes, Pasco County, as the "Baldomero Lopez State Veterans' Nursing Home", providing an effective date.

—was read the third time by title

On motions by Senator Latvala, HB 1893 was passed and by two-thirds vote immediately certified to the House. The vote on passage was

Yeas—38

Madam President	Childers	Dyer	Harris
Bankhead	Clary	Forman	Holzendorf
Bronson	Cowin	Geller	Horne
Burt	Crist	Grant	Jones
Campbell	Diaz-Balart	Gutman	Kirkpatrick
Casas	Dudley	Hargrett	Klein

Kurth	McKay	Rossin	Turner
Latvala	Meadows	Scott	Williams
Laurent	Myers	Silver	
Lee	Ostalkiewicz	Thomas	

Nays—None

CS for HB 1887—A bill to be entitled An act relating to confidentiality of records and meetings of the Florida Automobile Joint Underwriting Association; amending s. 627 311, F.S., providing exemptions from public records requirements for underwriting files, open claim files, audit records for a specified time, matters reasonably encompassed in privileged attorney-client communications, licensed proprietary information made confidential by contract, certain employee medical records and employee assistance programs records, certain negotiation information for a specified time, minutes of closed meetings regarding underwriting files, and minutes of closed meetings regarding claims files for a specified time, providing requirements regarding sharing of confidential records; providing an exemption from public meetings requirements for meetings during which underwriting files or open claims files are discussed; providing requirements regarding such closed meetings and records thereof, providing for future review and repeal, providing a finding of public necessity, providing an effective date

—was read the third time by title.

On motions by Senator Williams, CS for HB 1887 was passed and by two-thirds vote immediately certified to the House. The vote on passage was:

Yeas—40

Madam President	Crist	Holzendorf	Meadows
Bankhead	Diaz-Balart	Horne	Myers
Bronson	Dudley	Jones	Ostalkiewicz
Brown-Waite	Dyer	Kirkpatrick	Rossin
Burt	Forman	Klein	Scott
Campbell	Geller	Kurth	Silver
Casas	Grant	Latvala	Sullivan
Childers	Gutman	Laurent	Thomas
Clary	Hargrett	Lee	Turner
Cowin	Harris	McKay	Williams

Nays—None

MOTIONS

On motion by Senator Bankhead, the rules were waived and time of recess was extended until completion of motions and announcements.

On motion by Senator Bankhead, by two-thirds vote all bills remaining on the Special Order Calendar this day were placed on the Special Order Calendar for Wednesday, April 22.

REPORTS OF COMMITTEES

The Committee on Health Care recommends the following pass: SB 286 with 1 amendment

The bill was referred to the Committee on Banking and Insurance under the original reference.

The Committee on Banking and Insurance recommends the following pass: SB 1946 with 2 amendments

The bill was referred to the Committee on Commerce and Economic Opportunities under the original reference.

The Committee on Executive Business, Ethics and Elections recommends the following pass: SB 1884 with 1 amendment

The bill was referred to the Committee on Governmental Reform and Oversight under the original reference.

STORAGE NAME: h1793s2z.ei
DATE: May 29, 1998

****FINAL ACTION****
****SEE FINAL ACTION STATUS SECTION****

**HOUSE OF REPRESENTATIVES
AS REVISED BY THE COMMITTEE ON
EDUCATION INNOVATION
FINAL BILL RESEARCH & ECONOMIC IMPACT STATEMENT**

BILL #: CS/CS/HB 1793

RELATING TO: Nonprofit Private Schools

SPONSOR(S): Committees on General Government Appropriations and Education Innovation,
and Representative Wise and others

COMPANION BILL(S). SB 1896 (s)

ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:

- (1) EDUCATION INNOVATION YEAS 8 NAYS 0
- (2) GENERAL GOVERNMENT APPROPRIATIONS YEAS 8 NAYS 0
- (3)
- (4)
- (5)

I. FINAL ACTION STATUS:

PASSED BY THE LEGISLATURE - CHAPTER #98-306, LAWS OF FLORIDA

CS/CS/HB 1793 passed the Legislature and was ordered enrolled on April 21, 1998. This act was approved by the Governor on May 29, 1998.

II. SUMMARY:

This bill amends the *Florida Industrial Development Financing Act* and the *Private School Corporation Law of 1959* to allow the issuance of bonds to help finance the cost of purchase or construction of property used for, or useful in, the operation of any nonprofit private school established pursuant to Florida Statute or the United States Internal Revenue Code.

Nonprofit private preschool, kindergarten, primary and secondary schools will be able to access the federal tax-exempt bond market through Florida industrial development authorities. The structure would be the same as private corporations use in industrial development bond financing, and as nonprofit private higher education borrowers use in educational facilities authorities.

The bill does not authorize use of public funds. The bill specifically precludes the state, a local agency/authority, or any political subdivision of the state, from pledging its faith and credit to support debt issued through industrial development authorities. Individual borrowers are the only source of bond repayment on their individual debt issues.

This bill has no fiscal impact on state revenues.

III. SUBSTANTIVE RESEARCH:

A. PRESENT SITUATION:

Chapter 159, Part II, F.S., contains the *Florida Industrial Development Financing Act*. The purpose of the act is to enhance economic activity in the state by attracting manufacturing development, business enterprise management, and other activities conducive to economic promotion in order to provide a stronger, more balanced, and stable economy in the state, while providing through pollution control and otherwise for the health and safety of the people. The act allows for the issuance of bonds by local governmental bodies for projects deemed to promote this purpose. The types of projects include:

- research and development parks
- agricultural processing or storage facilities
- warehousing or distribution facilities
- headquarters facilities
- tourism facilities
- public lodging or restaurant facilities
- convention or trade show facilities
- urban parking facilities
- trade centers
- health care facilities
- airport or port facilities
- commercial project in an enterprise zones
- motion picture production facilities
- preservation or rehabilitation of a certified historic structures
- educational facilities
- mass commuting facilities
- social service centers

Subsection 159.27(22), F.S., specifically defines an "educational facility" as ". . . a structure suitable for use as a dormitory or other housing facility or a dining facility, that is operated in the public sector and used for or useful in connection with the operation of an institution for higher education . . ."

The act allows local governments, or bonding authorities formed by such governments, to issue bonds to finance the cost of the projects listed above. Pursuant to section 159.31, F.S., bonds issued pursuant to the act are exempt from state taxation.

A number of states allow nonprofit private primary and secondary schools to use issuing authorities to access the tax-exempt market; these states draw no distinction between nonprofit private higher education and primary-secondary schools. Some states where private primary and secondary schools have actually issued debt through local authorities include: Connecticut, Georgia, Illinois, Indiana, Massachusetts, Michigan, Minnesota, Missouri, New Hampshire, New Jersey, New Mexico, New York, Oklahoma, Pennsylvania, and Tennessee.

Chapter 617, F.S., the *Florida Not For Profit Corporation Act*, describes the Florida law governing the not-for-profit corporations conducting affairs in the state. Corporations may be organized under this act for any lawful purpose or purposes not for pecuniary

profit. The chapter outlines the filing requirements, fees and powers of such corporations.

Chapter 623, F.S., the *Private School Corporation Law of 1959*, allows 25 or more adult Floridians to form a private school corporation. The chapter describes specific steps that must be taken, and delineates that a private school corporation shall be a private corporation for charitable and benevolent purposes. Section 623.09, F.S., provides that such corporations are exempt from taxation as provided by Florida law. Section 623.10, F.S., grants such corporations specific powers and duties, including the ability to purchase real and tangible personal property, and to issue notes of indebtedness. Section 623.13, F.S., delineates that any corporation formed pursuant to chapter 623, F.S., must be administered, supervised, operated, financed, and controlled exclusively by private persons and their funds. Public officials are prohibited from engaging in any such affairs of the corporation.

B. EFFECT OF PROPOSED CHANGES:

This bill amends the *Florida Industrial Development Financing Act* and the *Private School Corporation Law of 1959* to allow the issuance of bonds to help finance the cost of purchase or construction of property used for or useful in the operation of any nonprofit private school established pursuant to chapters 617 or 623, F.S., or section 501(c)(3) of the United States Internal Revenue Code.

Nonprofit private preschool, kindergarten, primary and secondary schools will be able to access the federal tax-exempt bond market through Florida industrial development authorities. The structure would be the same as private corporations use in industrial development bond financing, and as nonprofit private higher education borrowers use in educational facilities authorities.

There is no use of public funds. The bill specifically precludes the state, a local agency/authority, or any political subdivision of the state, from pledging its faith and credit to support debt issued through industrial development authorities. Individual borrowers are the only source of bond repayment on their individual debt issues.

C. APPLICATION OF PRINCIPLES:

1. Less Government:

a. Does the bill create, increase or reduce, either directly or indirectly:

(1) any authority to make rules or adjudicate disputes?

N/A

(2) any new responsibilities, obligations or work for other governmental or private organizations or individuals?

The bill may increase obligations of private organizations who choose to utilize the authority granted in the bill to issue bonds.

- (3) any entitlement to a government service or benefit?

Nonprofit private schools meeting certain criteria will be allowed to issue bonds to help with costs of property used in the school's operation. Tax-exempt financing will be available as an option to these schools without the use of public funds.

- b. If an agency or program is eliminated or reduced:

- (1) what responsibilities, costs and powers are passed on to another program, agency, level of government, or private entity?

N/A

- (2) what is the cost of such responsibility at the new level/agency?

N/A

- (3) how is the new agency accountable to the people governed?

N/A

2. Lower Taxes:

- a. Does the bill increase anyone's taxes?

N/A

- b. Does the bill require or authorize an increase in any fees?

N/A

- c. Does the bill reduce total taxes, both rates and revenues?

N/A

- d. Does the bill reduce total fees, both rates and revenues?

N/A

- e. Does the bill authorize any fee or tax increase by any local government?

N/A

3. Personal Responsibility:

- a. Does the bill reduce or eliminate an entitlement to government services or subsidy?

No.

- b. Do the beneficiaries of the legislation directly pay any portion of the cost of implementation and operation?

Yes. Nonprofit private schools pay the cost of utilizing the bonding option provided for in the bill.

4. Individual Freedom:

- a. Does the bill increase the allowable options of individuals or private organizations/associations to conduct their own affairs?

Nonprofit private schools are given an additional financing option for property through the issuance of bonds under the provisions of the Florida Industrial Development Financing Act.

- b. Does the bill prohibit, or create new government interference with, any presently lawful activity?

No.

5. Family Empowerment:

- a. If the bill purports to provide services to families or children:

- (1) Who evaluates the family's needs?

N/A

- (2) Who makes the decisions?

N/A

- (3) Are private alternatives permitted?

N/A

- (4) Are families required to participate in a program?

N/A

(5) Are families penalized for not participating in a program?

N/A

b. Does the bill directly affect the legal rights and obligations between family members?

N/A

c. If the bill creates or changes a program providing services to families or children, in which of the following does the bill vest control of the program, either through direct participation or appointment authority:

(1) parents and guardians?

N/A

(2) service providers?

N/A

(3) government employees/agencies?

N/A

D. STATUTE(S) AFFECTED:

Amends sections 159.27 and 623.13, F.S.

E. SECTION-BY-SECTION RESEARCH:

Section 1: Amends subsection 159.27(22), F.S., to revise the definition for "educational facility" to include property that comprises the buildings and equipment, structures, and special education use areas that are built, installed, or established to serve primarily the education purposes of operating any nonprofit private preschool, kindergarten, elementary school, middle school, or high school that is established under chapter 617 or chapter 623, F.S., or that is owned or operated by an organization described in section 501(c)(3) of the United States Internal Revenue Code. Also states that bonds issued under this definition shall not be deemed to constitute a debt, liability, or obligation of the state or any political subdivision of the state, or a pledge of the faith and credit of the state or its political subdivisions.

Section 2: Amends section 623.13, F.S., to allow the financing of educational facilities under the Florida Industrial Development Financing Act found in part II of chapter 159, F.S.

Section 3: Provides that the act shall take effect upon becoming a law.

IV. FISCAL RESEARCH & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring Effects:

N/A

2. Recurring Effects:

N/A

3. Long Run Effects Other Than Normal Growth:

N/A

4. Total Revenues and Expenditures:

This bill requires no use of public funds. The bill specifically precludes the state, a local agency/authority, or any political subdivision of the state from pledging its faith and credit to support debt issued through industrial development authorities.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

None.

2. Recurring Effects:

None.

3. Long Run Effects Other Than Normal Growth:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

Individual borrowers are the only source of bond repayments on their individual debt issues.

2. Direct Private Sector Benefits:

Private primary and secondary education providers benefit by having access to low-cost tax-exempt debt, a form of federal subsidy.

3. Effects on Competition, Private Enterprise and Employment Markets

This bill does not use any bond issuance capacity reserved for for-profit manufacturing corporations.

D. FISCAL COMMENTS:

None.

V. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

This bill does not require counties or municipalities to spend funds or to take an action requiring the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

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

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

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

VI. COMMENTS:

None.

VII. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

The House Committee on General Government Appropriations adopted one amendment that clarified the definition of "educational facility" as it relates to the *Florida Industrial Development Financing Act*. The amendment was incorporated into CS/HB 1793 resulting in CS/CS/HB 1793 which is the subject of this Bill Research & Economic Impact Statement.

The House passed CS/CS/HB 1793 on March 24, 1998 with 116 YEAS and 2 NAYS. On April 21, 1998 the committee substitute passed the Senate with 40 YEAS and 0 NAYS. It was ordered enrolled on the same day.

VIII SIGNATURES:

COMMITTEE ON EDUCATION INNOVATION:

Prepared by:

Legislative Research Director:

Ouida J. Ashworth

Peter C. Doherty

AS REVISED BY THE COMMITTEE ON GENERAL GOVERNMENT APPROPRIATIONS:

Prepared by:

Legislative Research Director:

Jenny Underwood Dietzel

Cynthia Kelly

FINAL RESEARCH PREPARED BY COMMITTEE ON EDUCATION INNOVATION:

Prepared by:

Legislative Research Director:


Ouida J. Ashworth


Peter C. Doherty

Florida Legislature On-Line Sunshine

[Bill By Hundreds](#) [Bill Text](#) [Amendments](#) [Staff Analysis/Bill Research](#) [Vote History](#) [Citations](#)

S 1896: Nonprofit Private Schools

S 1896 GENERAL BILL by Scott; (CO-SPONSORS) Latvala (Similar CS/CS/H 1793)
Nonprofit Private Schools; redefines term "educational facility" to include property used for operation of certain nonprofit private schools; provides requirements re financing; authorizes financing under Fla. Industrial Development Financing Act or by industrial development authorities. Amends 159.27, 623.13. EFFECTIVE DATE: Upon becoming law.
03/03/98 SENATE Filed
03/11/98 SENATE Introduced, referred to Education; Ways and Means -SJ 00165
03/19/98 SENATE On Committee agenda-- Education, 03/24/98, 9:00 am, Room-A(LL-37)
03/24/98 SENATE Comm. Action. Favorable by Education -SJ 00303; Now in Ways and Means -SJ 00303
03/27/98 SENATE On Committee agenda-- Ways and Means, 04/01/98, 12:30 pm, Room-EL
04/01/98 SENATE Withdrawn from Ways and Means -SJ 00324; Placed on Calendar
04/15/98 SENATE Placed on Special Order Calendar -SJ 00478
04/16/98 SENATE Placed on Special Order Calendar -SJ 00478
04/17/98 SENATE Placed on Special Order Calendar -SJ 00498; Read second time -SJ 00517; Amendment(s) adopted -SJ 00517; House Bill substituted -SJ 00517; Laid on Table, Iden./Sim./Compare Bill(s) passed, refer to CS/CS/HB 1793 (Ch. 98-306)

BILL TEXT: ([Top](#))

sb1896(View As: [HTML](#), [As Printed](#))

AMENDMENTS: ([Top](#))

Amendment 692242: An Amendment to sb1896(View As: [HTML](#), [As Printed](#))

STAFF ANALYSIS/BILL RESEARCH: ([Top](#))

SB1896 by ed(View As: [As Printed](#))

VOTE HISTORY: ([Top](#))

NO VOTE DATA AVAILABLE

STATUTE CITATIONS: ([Top](#))

[0159.27](#)

By Senators Scott and Latvala

31-631A-98

See CS/HB 1793

1 A bill to be entitled
2 An act relating to nonprofit private schools;
3 amending s. 159.27, F.S.; redefining the term
4 "educational facility" to include property used
5 for the operation of certain nonprofit private
6 schools; providing requirements relating to
7 financing; amending s. 623.13, F.S.;
8 authorizing financing under the Florida
9 Industrial Development Financing Act or by
10 industrial development authorities; providing
11 an effective date.

12
13 Be It Enacted by the Legislature of the State of Florida:

14
15 Section 1. Subsections (5) and (22) of section 159.27,
16 Florida Statutes, are amended to read:

17 159.27 Definitions.--The following words and terms,
18 unless the context clearly indicates a different meaning,
19 shall have the following meanings:

20 (5) "Project" means any capital project comprising an
21 industrial or manufacturing plant, a research and development
22 park, an agricultural processing or storage facility, a
23 warehousing or distribution facility, a headquarters facility,
24 a tourism facility, a convention or trade show facility, an
25 urban parking facility, a trade center, a health care
26 facility, an educational facility, a correctional or detention
27 facility, a motion picture production facility, a preservation
28 or rehabilitation of a certified historic structure, an
29 airport or port facility, a commercial project in an
30 enterprise zone, a pollution-control facility, a hazardous or
31 solid waste facility, a social service center, or a mass

1 commuting facility, including one or more buildings and other
2 structures, whether or not on the same site or sites; any
3 rehabilitation, improvement, renovation, or enlargement of, or
4 any addition to, any buildings or structures for use as a
5 factory, a mill, a processing plant, an assembly plant, a
6 fabricating plant, an industrial distribution center, a
7 repair, overhaul, or service facility, a test facility, an
8 agricultural processing or storage facility, a warehousing or
9 distribution facility, a headquarters facility, a tourism
10 facility, a convention or trade show facility, an urban
11 parking facility, a trade center, a health care facility, an
12 educational facility, a correctional or detention facility, a
13 motion picture production facility, a preservation or
14 rehabilitation of a certified historic structure, an airport
15 or port facility, a commercial project in an enterprise zone,
16 a pollution-control facility, a hazardous or solid waste
17 facility, a social service center, or a mass commuting
18 facility, and other facilities, including research and
19 development facilities, for manufacturing, processing,
20 assembling, repairing, overhauling, servicing, testing, or
21 handling of any products or commodities embraced in any
22 industrial or manufacturing plant, in connection with the
23 purposes of a research and development park, or other
24 facilities for or used in connection with an agricultural
25 processing or storage facility, a warehousing or distribution
26 facility, a headquarters facility, a tourism facility, a
27 convention or trade show facility, an urban parking facility,
28 a trade center, a health care facility, an educational
29 facility, a correctional or detention facility, a motion
30 picture production facility, a preservation or rehabilitation
31 of a certified historic structure, an airport or port

1 facility, or a commercial project in an enterprise zone or for
2 controlling air or water pollution or for the disposal,
3 processing, conversion, or reclamation of hazardous or solid
4 waste, a social service center, or a mass commuting facility;
5 and including also the sites thereof and other rights in land
6 therefor whether improved or unimproved, machinery, equipment,
7 site preparation and landscaping, and all appurtenances and
8 facilities incidental thereto, such as warehouses, utilities,
9 access roads, railroad sidings, truck docking and similar
10 facilities, parking facilities, office or storage or training
11 facilities, public lodging and restaurant facilities, dockage,
12 wharfage, solar energy facilities, and other improvements
13 necessary or convenient for any manufacturing or industrial
14 plant, research and development park, agricultural processing
15 or storage facility, warehousing or distribution facility,
16 tourism facility, convention or trade show facility, urban
17 parking facility, trade center, health care facility,
18 educational facility, correctional or detention facility,
19 motion picture production facility, preservation or
20 rehabilitation of a certified historic structure, airport or
21 port facility, commercial project in an enterprise zone,
22 pollution-control facility, hazardous or solid waste facility,
23 social service center, or mass commuting facility and any one
24 or more combinations of the foregoing.

25 (22) "Educational facility" means:

26 (a) Property, limited to a structure suitable for use
27 as a dormitory or other housing facility or a dining facility,
28 that is operated in the public sector and used for or useful
29 in connection with the operation of an institution for higher
30 education, as defined in s. 243.20(8), which offers the
31 baccalaureate or a higher degree and that is constructed in

1 | compliance with applicable codes as determined by appropriate
2 | state agencies.

3 | (b) Property that comprises the buildings and
4 | equipment, structures, and special educational use areas that
5 | serve primarily the educational purposes of any nonprofit
6 | private preschool, kindergarten, or elementary, middle, or
7 | high school that is established under chapter 617 or chapter
8 | 623, or that is owned or operated by an organization described
9 | in section 501(c)(3) of the U.S. Internal Revenue Code.
10 | However, the requirements of this part for the financing of
11 | projects through local agencies shall also apply to such
12 | schools, and bonds issued under the provisions of this part
13 | for such schools shall not be deemed to constitute a debt,
14 | liability, or obligation of the state or any political
15 | subdivision thereof, or a pledge of the faith and credit of
16 | the state or of any such political subdivision, but shall be
17 | payable solely from the revenues provided therefor.

18 | Section 2. Section 623.13, Florida Statutes, is
19 | amended to read:

20 | 623.13 Administration, supervision, and operation by
21 | private persons or entities.--Any corporation organized and
22 | existing under this act shall be administered, supervised,
23 | operated, financed, and controlled exclusively by private
24 | persons and private entities and their funds. All persons
25 | while acting in any public official capacity are hereby
26 | specifically prohibited from engaging in any manner in such
27 | administration, supervision, operation, financing, and control
28 | of the affairs of such corporation. This section does not
29 | prohibit the financing of educational facilities as provided
30 | in part II of chapter 159.

31 |

1 Section 3. This act shall take effect upon becoming a
2 law.

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SENATE SUMMARY

Redefines the term "educational facility" for purposes of
the Industrial Development Financing Act to include
nonprofit private schools. Authorizes financing of
nonprofit private schools under the Industrial
Development Financing Act or by industrial development
authorities.

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 11, 1998 Revised _____

Subject: Nonprofit Private Schools

	<u>Analyst</u>	<u>Staff Director</u>	<u>Reference</u>	<u>Action</u>
1	<u>O'Farrell</u>	<u>O'Farrell</u>	<u>ED</u>	<u>Favorable</u>
2	_____	_____	<u>WM</u>	_____
3	_____	_____	_____	_____
4	_____	_____	_____	_____
5	_____	_____	_____	_____

I. Summary:

This bill would allow local governments or local bond authorities to issue bonds, under the Florida Industrial Development Financing Act, to finance educational facilities and property used by nonprofit, private school corporations. The bill would also provide that bonds issued pursuant to the act would not be considered a debt, liability, or obligation of the state or any of its political subdivisions, or a pledge of the full faith and credit of those governments

This bill amends sections 159 27 and 623 13 of the Florida Statutes

II. Present Situation:

Florida Industrial Development Financing Act

The Florida Industrial Development Financing Act (part II of Chapter 159, F S) permits local governments, or bonding authorities formed by local governments, to issue bonds to finance projects, including

- research and development parks,
- agricultural processing or storage facilities,
- warehousing or distribution facilities,
- headquarters facilities,
- tourism facilities,
- public lodging or restaurant facilities,
- convention or trade show facilities,
- urban parking facilities,
- trade centers,
- health care facilities,

- airport or port facilities,
- commercial projects in enterprise zones,
- motion picture production facilities,
- preservation or rehabilitation of certified historic structure,
- educational facilities,
- mass commuting facilities, and
- social service centers.

Bonds issued to finance these facilities are exempt from state taxation

Currently, local governments are not authorized to issue bonds to finance educational facilities used in the operation of private school corporations. Section 159.27(22), F.S., defines an “educational facility” as a “structure suitable for use as a dormitory or other housing facility or a dining facility, that is operated in the public sector and used for or useful in connection with the operation of an institution for higher education.”

Not-for-profit Corporations

Chapter 617, F.S., the Florida Not For Profit Corporation Act, governs the establishment, administration, and operation of corporations that do not distribute any corporate income or profits to its members, directors, or officers.

Private School Corporations

Chapter 623, F.S., allows 25 or more adult Floridians to form a private school corporation. The chapter establishes procedures for forming a private school corporation. Each private school corporation must be a private corporation for charitable and benevolent purposes. Section 623.09, F.S., exempts such corporations from taxation as provided by Florida law. Section 623.10, F.S., grants such corporations specific powers and duties, including the ability to purchase real and tangible personal property, and to issue notes of indebtedness.

Any corporation formed under Chapter 623 must be administered, supervised, operated, financed, and controlled exclusively by private persons and their funds (s. 623.13, F.S.). Public officials are prohibited from engaging in any such affairs of the corporation.

III. Effect of Proposed Changes:

This bill allows local governments or local bond authorities to issue bonds to finance educational facilities used in the operation of a private school corporation established under chapters 617 (not-for-profit corporations) or 623 (private school corporations), F.S. This is accomplished by expanding the definition of “educational facility” for purposes of the Florida Industrial Financing Act to include any property used in the operation of any private school corporation that is established under chapters 617 or 623, F.S., is not operated for private or corporate profit, and is exempt from federal taxation under s. 501(c)(3) of the Internal Revenue Code of 1986, as amended. The proposed language would allow local governments to issue bonds to pay for any

“property” of eligible private school corporations, not just for the educational facility’s “structure.” As currently defined, the term “educational facility” is limited to “structures” used in the operation of accredited, nonprofit higher education institution. In addition, bonds so issued for such schools would not be a debt, liability, or obligation of the state or any of its political subdivisions, and would not constitute a pledge of faith or credit of the state or any of its political subdivisions.

The bill also amends s. 623.13, F.S., which governs the administration, supervision, operation, financing, and control of private school corporations. The amended section specifies that those provisions do not prohibit local governments from issuing bonds to finance educational facilities as provided in parts II and III of ch. 159, F.S., the Florida Industrial Financing Act.

This bill does not address how assets would be handled if the private school corporation dissolved after receiving the benefits of bonds issued by a local government.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The bill does not require county or municipal governments to issue bonds for educational facilities operated by private school corporations.

B. Public Records/Open Meetings Issues:

None

C. Trust Funds Restrictions:

None

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

None

B. Private Sector Impact:

Private school providers taking advantage of the bonding provisions would have access to low-cost, tax-exempt debt.

C. Government Sector Impact:

None

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

STORAGE NAME: h1793s2z.ei

DATE: May 29, 1998

****FINAL ACTION****

****SEE FINAL ACTION STATUS SECTION****

**HOUSE OF REPRESENTATIVES
AS REVISED BY THE COMMITTEE ON
EDUCATION INNOVATION
FINAL BILL RESEARCH & ECONOMIC IMPACT STATEMENT**

BILL #: CS/CS/HB 1793

RELATING TO: Nonprofit Private Schools

SPONSOR(S): Committees on General Government Appropriations and Education Innovation,
and Representative Wise and others

COMPANION BILL(S): SB 1896 (s)

ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE

- (1) EDUCATION INNOVATION YEAS 8 NAYS 0
- (2) GENERAL GOVERNMENT APPROPRIATIONS YEAS 8 NAYS 0
- (3)
- (4)
- (5)

I FINAL ACTION STATUS:

PASSED BY THE LEGISLATURE - CHAPTER #98-306, LAWS OF FLORIDA

CS/CS/HB 1793 passed the Legislature and was ordered enrolled on April 21, 1998. This act was approved by the Governor on May 29, 1998.

II. SUMMARY:

This bill amends the *Florida Industrial Development Financing Act* and the *Private School Corporation Law of 1959* to allow the issuance of bonds to help finance the cost of purchase or construction of property used for, or useful in, the operation of any nonprofit private school established pursuant to Florida Statute or the United States Internal Revenue Code.

Nonprofit private preschool, kindergarten, primary and secondary schools will be able to access the federal tax-exempt bond market through Florida industrial development authorities. The structure would be the same as private corporations use in industrial development bond financing, and as nonprofit private higher education borrowers use in educational facilities authorities.

The bill does not authorize use of public funds. The bill specifically precludes the state, a local agency/authority, or any political subdivision of the state, from pledging its faith and credit to support debt issued through industrial development authorities. Individual borrowers are the only source of bond repayment on their individual debt issues.

This bill has no fiscal impact on state revenues.

III. SUBSTANTIVE RESEARCH:

A. PRESENT SITUATION:

Chapter 159, Part II, F.S., contains the *Florida Industrial Development Financing Act*. The purpose of the act is to enhance economic activity in the state by attracting manufacturing development, business enterprise management, and other activities conducive to economic promotion in order to provide a stronger, more balanced, and stable economy in the state, while providing through pollution control and otherwise for the health and safety of the people. The act allows for the issuance of bonds by local governmental bodies for projects deemed to promote this purpose. The types of projects include:

- research and development parks
- agricultural processing or storage facilities
- warehousing or distribution facilities
- headquarters facilities
- tourism facilities
- public lodging or restaurant facilities
- convention or trade show facilities
- urban parking facilities
- trade centers
- health care facilities
- airport or port facilities
- commercial project in an enterprise zones
- motion picture production facilities
- preservation or rehabilitation of a certified historic structures
- educational facilities
- mass commuting facilities
- social service centers

Subsection 159.27(22), F.S., specifically defines an "educational facility" as ". . . a structure suitable for use as a dormitory or other housing facility or a dining facility, that is operated in the public sector and used for or useful in connection with the operation of an institution for higher education . . ."

The act allows local governments, or bonding authorities formed by such governments, to issue bonds to finance the cost of the projects listed above. Pursuant to section 159.31, F.S., bonds issued pursuant to the act are exempt from state taxation.

A number of states allow nonprofit private primary and secondary schools to use issuing authorities to access the tax-exempt market; these states draw no distinction between nonprofit private higher education and primary-secondary schools. Some states where private primary and secondary schools have actually issued debt through local authorities include: Connecticut, Georgia, Illinois, Indiana, Massachusetts, Michigan, Minnesota, Missouri, New Hampshire, New Jersey, New Mexico, New York, Oklahoma, Pennsylvania, and Tennessee.

Chapter 617, F.S., the *Florida Not For Profit Corporation Act*, describes the Florida law governing the not-for-profit corporations conducting affairs in the state. Corporations may be organized under this act for any lawful purpose or purposes not for pecuniary

profit. The chapter outlines the filing requirements, fees and powers of such corporations.

Chapter 623, F.S., the *Private School Corporation Law of 1959*, allows 25 or more adult Floridians to form a private school corporation. The chapter describes specific steps that must be taken, and delineates that a private school corporation shall be a private corporation for charitable and benevolent purposes. Section 623.09, F.S., provides that such corporations are exempt from taxation as provided by Florida law. Section 623.10, F.S., grants such corporations specific powers and duties, including the ability to purchase real and tangible personal property, and to issue notes of indebtedness. Section 623.13, F.S., delineates that any corporation formed pursuant to chapter 623, F.S., must be administered, supervised, operated, financed, and controlled exclusively by private persons and their funds. Public officials are prohibited from engaging in any such affairs of the corporation.

B. EFFECT OF PROPOSED CHANGES:

This bill amends the *Florida Industrial Development Financing Act* and the *Private School Corporation Law of 1959* to allow the issuance of bonds to help finance the cost of purchase or construction of property used for or useful in the operation of any nonprofit private school established pursuant to chapters 617 or 623, F.S., or section 501(c)(3) of the United States Internal Revenue Code.

Nonprofit private preschool, kindergarten, primary and secondary schools will be able to access the federal tax-exempt bond market through Florida industrial development authorities. The structure would be the same as private corporations use in industrial development bond financing, and as nonprofit private higher education borrowers use in educational facilities authorities.

There is no use of public funds. The bill specifically precludes the state, a local agency/authority, or any political subdivision of the state, from pledging its faith and credit to support debt issued through industrial development authorities. Individual borrowers are the only source of bond repayment on their individual debt issues.

C. APPLICATION OF PRINCIPLES:

1. Less Government:

a. Does the bill create, increase or reduce, either directly or indirectly:

(1) any authority to make rules or adjudicate disputes?

N/A

(2) any new responsibilities, obligations or work for other governmental or private organizations or individuals?

The bill may increase obligations of private organizations who choose to utilize the authority granted in the bill to issue bonds.

- (3) any entitlement to a government service or benefit?

Nonprofit private schools meeting certain criteria will be allowed to issue bonds to help with costs of property used in the school's operation
Tax-exempt financing will be available as an option to these schools without the use of public funds.

- b If an agency or program is eliminated or reduced:

- (1) what responsibilities, costs and powers are passed on to another program, agency, level of government, or private entry?

N/A

- (2) what is the cost of such responsibility at the new level/agency?

N/A

- (3) how is the new agency accountable to the people governed?

N/A

2. Lower Taxes:

- a. Does the bill increase anyone's taxes?

N/A

- b. Does the bill require or authorize an increase in any fees?

N/A

- c. Does the bill reduce total taxes, both rates and revenues?

N/A

- d. Does the bill reduce total fees, both rates and revenues?

N/A

- e. Does the bill authorize any fee or tax increase by any local government?

N/A

3. Personal Responsibility:

- a Does the bill reduce or eliminate an entitlement to government services or subsidy?

No.

- b. Do the beneficiaries of the legislation directly pay any portion of the cost of implementation and operation?

Yes. Nonprofit private schools pay the cost of utilizing the bonding option provided for in the bill.

4. Individual Freedom:

- a. Does the bill increase the allowable options of individuals or private organizations/associations to conduct their own affairs?

Nonprofit private schools are given an additional financing option for property through the issuance of bonds under the provisions of the Florida Industrial Development Financing Act.

- b. Does the bill prohibit, or create new government interference with, any presently lawful activity?

No.

5. Family Empowerment:

- a. If the bill purports to provide services to families or children:

- (1) Who evaluates the family's needs?

N/A

- (2) Who makes the decisions?

N/A

- (3) Are private alternatives permitted?

N/A

- (4) Are families required to participate in a program?

N/A

(5) Are families penalized for not participating in a program?

N/A

b. Does the bill directly affect the legal rights and obligations between family members?

N/A

c. If the bill creates or changes a program providing services to families or children, in which of the following does the bill vest control of the program, either through direct participation or appointment authority:

(1) parents and guardians?

N/A

(2) service providers?

N/A

(3) government employees/agencies?

N/A

D. STATUTE(S) AFFECTED:

Amends sections 159.27 and 623.13, F.S.

E. SECTION-BY-SECTION RESEARCH:

Section 1: Amends subsection 159.27(22), F.S., to revise the definition for "educational facility" to include property that comprises the buildings and equipment, structures, and special education use areas that are built, installed, or established to serve primarily the education purposes of operating any nonprofit private preschool, kindergarten, elementary school, middle school, or high school that is established under chapter 617 or chapter 623, F.S., or that is owned or operated by an organization described in section 501(c)(3) of the United States Internal Revenue Code. Also states that bonds issued under this definition shall not be deemed to constitute a debt, liability, or obligation of the state or any political subdivision of the state, or a pledge of the faith and credit of the state or its political subdivisions.

Section 2: Amends section 623.13, F.S., to allow the financing of educational facilities under the Florida Industrial Development Financing Act found in part II of chapter 159, F.S.

Section 3: Provides that the act shall take effect upon becoming a law.

IV. FISCAL RESEARCH & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring Effects:

N/A

2. Recurring Effects:

N/A

3. Long Run Effects Other Than Normal Growth.

N/A

4. Total Revenues and Expenditures:

This bill requires no use of public funds. The bill specifically precludes the state, a local agency/authority, or any political subdivision of the state from pledging its faith and credit to support debt issued through industrial development authorities.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

None.

2. Recurring Effects:

None.

3. Long Run Effects Other Than Normal Growth:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

Individual borrowers are the only source of bond repayments on their individual debt issues

2. Direct Private Sector Benefits:

Private primary and secondary education providers benefit by having access to low-cost tax-exempt debt, a form of federal subsidy.

3. Effects on Competition, Private Enterprise and Employment Markets:

This bill does not use any bond issuance capacity reserved for for-profit manufacturing corporations

D. FISCAL COMMENTS:

None.

V CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

This bill does not require counties or municipalities to spend funds or to take an action requiring the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

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

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES.

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

VI. COMMENTS:

None.

VII. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

The House Committee on General Government Appropriations adopted one amendment that clarified the definition of "educational facility" as it relates to the *Florida Industrial Development Financing Act*. The amendment was incorporated into CS/HB 1793 resulting in CS/CS/HB 1793 which is the subject of this Bill Research & Economic Impact Statement

The House passed CS/CS/HB 1793 on March 24, 1998 with 116 YEAS and 2 NAYS. On April 21, 1998 the committee substitute passed the Senate with 40 YEAS and 0 NAYS. It was ordered enrolled on the same day.

VIII. SIGNATURES:

COMMITTEE ON EDUCATION INNOVATION:

Prepared by:

Legislative Research Director

 Ouida J. Ashworth

 Peter C. Doherty

AS REVISED BY THE COMMITTEE ON GENERAL GOVERNMENT APPROPRIATIONS:

Prepared by:

Legislative Research Director

 Jenny Underwood Dietzel

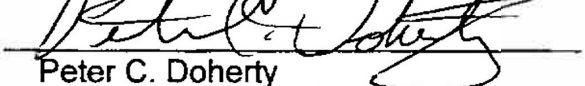
 Cynthia Kelly

FINAL RESEARCH PREPARED BY COMMITTEE ON EDUCATION INNOVATION

Prepared by:

Legislative Research Director:


Ouida J. Ashworth


Peter C. Doherty

06/22/98
16:09

FLORIDA LEGISLATURE - REGULAR SESSION 1998
LEGISLATIVE INFORMATION DIVISION - JLMC

PAGE 1

H 1793 GENERAL BILL/CS/CS by General Government Appropriations; Education Innovation (AEC); Wise; (CO-SPONSORS) Feeney; Putnam (Similar S 1896)
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03/31/97 HOUSE Filed
04/01/97 HOUSE Introduced -HJ 00368
04/07/97 HOUSE Referred to Education Innovation (AEC) -HJ 00485
05/02/97 HOUSE Carried over to 1998 Session pursuant to House Rule 96, In House Committee on Education Innovation (AEC)
12/17/97 HOUSE On Committee agenda-- Education Innovation (AEC), 01/07/98, 8:30 am, Reed Hall
01/07/98 HOUSE Comm. Action: Unanimously CS by Education Innovation (AEC)
01/30/98 HOUSE Also referred to General Government Appropriations; Now in General Government Appropriations
02/13/98 HOUSE On Committee agenda-- General Government Appropriations, 03/02/98, 12:30 pm, 214C
03/02/98 HOUSE Comm. Action:-Unanimously CS/CS by General Government Appropriations
03/03/98 HOUSE CARRIED OVER; Referred to Education Innovation (AEC); General Government Appropriations; On Committee agenda-- Education Innovation (AEC), 01/07/98, 8:30 am, Reed Hall; Comm. Action: Unanimously CS by Education Innovation (AEC) -HJ 00080; Also referred to General Government Appropriations -HJ 00067; CS read first time on 03/03/98 -HJ 00072; Now in General Government Appropriations; On Committee agenda-- General Government Appropriations, 03/02/98, 12:30 pm, 214C; Comm. Action:-Unanimously CS/CS by General Government Appropriations -HJ 00180
03/12/98 HOUSE CS read first time on 03/12/98 -HJ 00178; Pending Consent Calendar -HJ 00180
03/17/98 HOUSE Available for Consent Calendar
03/24/98 HOUSE Placed on Consent Calendar; Read second and third times -HJ 00329; CS passed; YEAS 116 NAYS 2 -HJ 00329
03/25/98 SENATE In Messages
04/01/98 SENATE Received, referred to Education; Ways and Means -SJ 00351
04/17/98 SENATE Withdrawn from Education; Ways and Means -SJ 00517; Substituted for SB 1896 -SJ 00517; Read second time -SJ 00517
04/21/98 SENATE Read third time -SJ 00741; CS passed; YEAS 40 NAYS 0 -SJ 00741; Immediately certified -SJ 00741
04/21/98 HOUSE Ordered enrolled -HJ 00961
05/14/98 Signed by Officers and presented to Governor
05/29/98 Approved by Governor; Chapter No. 98-306

0623.13

CONSTITUTION CITATIONS:

NO CONSTITUTION CITATIONS FOUND FOR REQUESTED BILL.

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H 1793 GENERAL BILL/CS/CS by General Government Appropriations; Education Innovation (AEC); Wise; (CO-SPONSORS) Feeney; Putnam (Similar S 1896)
Nonprofit Private Schools; redefines term "educational facility" to include property used for operation of certain nonprofit private schools; provides requirements re financing; authorizes financing under Fla. Industrial Development Financing Act. Amends 159.27, 623.13. Effective Date: 05/29/1998.

03/31/97 HOUSE Filed
04/01/97 HOUSE Introduced -HJ 00368
04/07/97 HOUSE Referred to Education Innovation (AEC) -HJ 00485
05/02/97 HOUSE Carried over to 1998 Session pursuant to House Rule 96, In House Committee on Education Innovation (AEC)
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03/02/98 HOUSE Comm. Action:-Unanimously CS/CS by General Government Appropriations
03/03/98 HOUSE CARRIED OVER; Referred to Education Innovation (AEC); General Government Appropriations; On Committee agenda-- Education Innovation (AEC), 01/07/98, 8:30 am, Reed Hall; Comm. Action: Unanimously CS by Education Innovation (AEC) -HJ 00080; Also referred to General Government Appropriations -HJ 00067; CS read first time on 03/03/98 -HJ 00072; Now in General Government Appropriations; On Committee agenda-- General Government Appropriations, 03/02/98, 12:30 pm, 214C; Comm. Action:-Unanimously CS/CS by General Government Appropriations -HJ 00180
03/12/98 HOUSE CS read first time on 03/12/98 -HJ 00178; Pending Consent Calendar -HJ 00180
03/17/98 HOUSE Available for Consent Calendar
03/24/98 HOUSE Placed on Consent Calendar; Read second and third times -HJ 00329; CS passed; YEAS 116 NAYS 2 -HJ 00329
03/25/98 SENATE In Messages
04/01/98 SENATE Received, referred to Education; Ways and Means -SJ 00351
04/17/98 SENATE Withdrawn from Education; Ways and Means -SJ 00517; Substituted for SB 1896 -SJ 00517; Read second time -SJ 00517
04/21/98 SENATE Read third time -SJ 00741; CS passed; YEAS 40 NAYS 0 -SJ 00741; Immediately certified -SJ 00741
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[hb1793c2 \(View As: HTML, As Printed\)](#)

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AMENDMENTS: [\(Top\)](#)

NO AMENDMENTS AVAILABLE

STAFF ANALYSIS/BILL RESEARCH: [\(Top\)](#)

HB1793S2 by GG [\(View As: As Printed\)](#)

VOTE HISTORY: [\(Top\)](#)

03/24/98

HOUSE:

HB1793 Rollcall:0020

04/21/98

SENATE:

HB1793 Rollcall:0015

STATUTE CITATIONS: [\(Top\)](#)

0159.27

0623.13

CONSTITUTION CITATIONS:

NO CONSTITUTION CITATIONS FOUND FOR REQUESTED BILL.

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