

## CHAPTER 2023-95

### Committee Substitute for Senate Bill No. 7026

An act relating to higher education finances; amending s. 1001.706, F.S.; requiring the Board of Governors to develop regulations for university boards of trustees relating to contracting for the construction of new facilities or for work on existing facilities; providing requirements for certain contracts executed or amended before a specified date; amending s. 1009.26, F.S.; providing that certain fee waivers apply to Florida College System institutions in addition to state universities; authorizing a state university or Florida College System institution to waive the out-of-state fee for a student who is an intercollegiate athlete receiving a scholarship; amending s. 1011.45, F.S.; revising the list of authorized expenditures that may be included in a carry forward spending plan for state universities; amending s. 1012.886, F.S.; revising the amount a Florida College System administrative employee may receive in remuneration; amending s. 1012.978, F.S.; requiring university boards of trustees to submit an annual report to the Board of Governors when awarding bonuses; requiring the board to develop a regulation; amending s. 1013.841, F.S.; revising the list of authorized expenditures that may be included in a carry forward spending plan for Florida College System institutions; amending s. 1012.976, F.S.; revising definitions; defining the term “public funds”; revising a limitation on compensation for state university employees; amending s. 1013.45, F.S.; providing that certain educational facility contracting and construction techniques applicable to school districts also apply to Florida College System institutions; amending s. 1013.64, F.S.; deleting cost and size limitations applicable to minor facilities; providing an effective date.

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

Section 1. Paragraph (a) of subsection (7) of section 1001.706, Florida Statutes, is amended to read:

1001.706 Powers and duties of the Board of Governors.—

(7) POWERS AND DUTIES RELATING TO PROPERTY.—

(a) The Board of Governors shall develop guidelines for university boards of trustees relating to the acquisition of real and personal property and the sale and disposal thereof and the approval and execution of contracts for the purchase, sale, lease, license, or acquisition of commodities, goods, equipment, contractual services, leases of real and personal property, and construction. The acquisition may include purchase by installment or lease-purchase. Such contracts may provide for payment of interest on the unpaid portion of the purchase price. Title to all real property acquired before ~~prior to~~ January 7, 2003, and to all real property acquired with funds appropriated by the Legislature shall be vested in the Board of Trustees of

the Internal Improvement Trust Fund and shall be transferred and conveyed by it.

1. No later than October 1, 2023, the Board of Governors shall develop regulations for university boards of trustees relating to the procedures for contracting for professional services as defined in s. 287.055 and for the construction of new facilities or for the remodeling, renovation, or maintenance of or additions or repairs to existing facilities. The regulations must include, but are not limited to, competitive bids, design-build, and selection of a construction management entity. Contracts executed, extended, or amended on or before September 30, 2023, must comply with the requirements of s. 287.055.

~~2. Notwithstanding any other provisions of this subsection, each board of trustees shall comply with the provisions of s. 287.055 for the procurement of professional services as defined therein. any acquisition pursuant to this paragraph is subject to the provisions of s. 1010.62.~~

Section 2. Subsections (2) and (4) of section 1009.26, Florida Statutes, are amended, and subsection (21) is added to that section, to read:

1009.26 Fee waivers.—

(2) A state university or Florida College System institution may waive any ~~or all~~ application, tuition, ~~or and~~ related fees for persons who supervise student interns for a state university.

(4) A state university or Florida College System institution may waive any ~~or all~~ application, tuition, ~~or and~~ related fees for persons 60 years of age or older who are residents of this state and who attend classes for credit. ~~No~~ Academic credit may not shall be awarded for attendance in classes for which fees are waived under this subsection. This privilege may be granted only on a space-available basis, if such classes are not filled as of the close of registration. A university may limit or deny the privilege for courses that ~~which~~ are in programs for which the Board of Governors has established selective admissions criteria. Persons paying full fees and state employees taking courses on a space-available basis shall have priority over those persons whose fees are waived in all cases where classroom spaces are limited.

(21) A state university or Florida College System institution may waive the out-of-state fee for a student who is an intercollegiate athlete receiving an athletic scholarship.

Section 3. Subsection (3) of section 1011.45, Florida Statutes, is amended to read:

1011.45 End of year balance of funds.—Unexpended amounts in any fund in a university current year operating budget shall be carried forward and included as the balance forward for that fund in the approved operating budget for the following year.

(3) A university's carry forward spending plan ~~must~~ shall include the estimated cost per planned expenditure and a timeline for completion of the expenditure. Authorized expenditures in a carry forward spending plan may include:

(a) Commitment of funds to a public education capital outlay project for which an appropriation has previously been provided that requires additional funds for completion and which is included in the list required by s. 1001.706(12)(d);

(b) Completion of a renovation, repair, or maintenance project that is consistent with the provisions of s. 1013.64(1) ~~or, up to \$5 million per project and replacement of a minor facility that does not exceed 10,000 gross square feet in size up to \$2 million;~~

(c) Completion of a remodeling or infrastructure project, including a project for a developmental research school, ~~up to \$10 million per project, if such project is survey recommended pursuant to s. 1013.31;~~

(d) Completion of a repair or replacement project necessary due to damage caused by a natural disaster for buildings included in the inventory required pursuant to s. 1013.31;

(e) Operating expenditures that support the university's ~~university~~ mission ~~and that are nonrecurring;~~

(f) Any purpose specified by the board or in the General Appropriations Act, including the requirements in s. 1001.706(12)(c) or similar requirements pursuant to Board of Governors regulations; and

(g) A commitment of funds to a contingency reserve for expenses incurred as a result of a state of emergency declared by the Governor pursuant to s. 252.36.

Section 4. Subsection (2) of section 1012.886, Florida Statutes, is amended to read:

1012.886 Remuneration of Florida College System institution administrative employees; limitations.—

(2) LIMITATION ON COMPENSATION.—Notwithstanding any other law, resolution, or rule to the contrary, a Florida College System institution administrative employee may not receive more than ~~\$250,000~~ \$200,000 in remuneration annually from appropriated state funds. Only compensation, as such term is defined in s. 121.021(22), provided to a Florida College System institution administrative employee may be used in calculating benefits under chapter 121.

Section 5. Section 1012.978, Florida Statutes, is amended to read:

1012.978 Bonuses for state university system employees.—Notwithstanding s. 215.425(3), a university board of trustees may implement a bonus scheme based on awards for work performance or employee recruitment and retention. The board of trustees must submit an annual report to the Board of Governors when awarding bonuses the bonus scheme, including the evaluation criteria by which a bonus will be awarded. The Board of Governors shall develop a regulation to ensure consistency in the implementation of this section ~~must approve any bonus scheme created under this section before its implementation.~~

Section 6. Subsection (4) of section 1013.841, Florida Statutes, is amended to read:

1013.841 End of year balance of Florida College System institution funds.—

(4) A Florida College System institution identified in paragraph (3)(b) must include in its carry forward spending plan the estimated cost per planned expenditure and a timeline for completion of the expenditure. Authorized expenditures in a carry forward spending plan may include:

(a) Commitment of funds to a public education capital outlay project for which an appropriation was previously provided, which requires additional funds for completion, and which is included in the list required by s. 1001.03(18)(d);

(b) Completion of a renovation, repair, or maintenance project that is consistent with ~~the provisions of s. 1013.64(1) or replacement of a minor facility, up to \$5 million per project;~~

(c) Completion of a remodeling or infrastructure project, ~~up to \$10 million per project,~~ if such project is survey recommended pursuant to s. 1013.31;

(d) Completion of a repair or replacement project necessary due to damage caused by a natural disaster for buildings included in the inventory required pursuant to s. 1013.31;

(e) Operating expenditures that support the Florida College System institution's mission ~~which are nonrecurring;~~

(f) Any purpose approved by the state board or specified in the General Appropriations Act; and

(g) A commitment of funds to a contingency reserve for expenses incurred as a result of a state of emergency declared by the Governor pursuant to s. 252.36.

Section 7. Section 1012.976, Florida Statutes, is amended to read:

1012.976 Remuneration of state university employees; limitations.—

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

(a) ~~“Appropriated state funds” means funds appropriated from the General Revenue Fund or funds appropriated from state trust funds.~~

~~(b) “Cash-equivalent compensation” means any benefit that may be assigned an equivalent cash value.~~

(b) “Public funds” means funds appropriated from the General Revenue Fund, funds appropriated from state trust funds, or tuition and fees.

(c) “Remuneration” means salary, bonuses, and cash-equivalent compensation paid to a state university employee by his or her employer for work performed, excluding health insurance benefits and retirement benefits.

(2) LIMITATION ON COMPENSATION.—Notwithstanding any other law, resolution, or rule to the contrary, a state university employee may not receive more than ~~\$250,000~~ \$200,000 in remuneration annually from ~~public appropriated state funds~~. Only compensation, as such term is defined in s. 121.021(22), provided to a state university employee may be used in calculating benefits under chapter 121.

(3) EXCEPTIONS.—This section does not prohibit any party from providing cash or cash-equivalent compensation from funds that are not ~~public appropriated state funds~~ to a state university employee in excess of the limit in subsection (2). If a party is unable or unwilling to fulfill an obligation to provide cash or cash-equivalent compensation to a state university employee as permitted under this subsection, ~~public appropriated state funds~~ may not be used to fulfill such obligation. This section does not apply to university teaching faculty in instructional programs classified as Computer Information Sciences and Support Services; Engineering; Engineering Technologies and Engineering-Related Fields; Florida Mental Health Institute; Health Professions and Related Programs; Homeland Security, Law Enforcement, Firefighting, and Related Fields; Mathematics; Nursing; or Physical Sciences; or to medical school faculty or staff.

Section 8. Section 1013.45, Florida Statutes, is amended to read:

1013.45 Educational facilities contracting and construction techniques for school districts and Florida College System institutions.—

(1) District school boards and boards of trustees of Florida College System institutions may employ procedures to contract for construction of new facilities, or for additions, remodeling, renovation, maintenance, or repairs to existing facilities, which ~~that will~~ include, but are ~~not be~~ limited to:

(a) Competitive bids.

(b) Design-build pursuant to s. 287.055.

(c) Selecting a construction management entity, pursuant to s. 255.103 or the process provided by s. 287.055, that would be responsible for all scheduling and coordination in both design and construction phases and is generally responsible for the successful, timely, and economical completion of the construction project. The construction management entity must consist of or contract with licensed or registered professionals for the specific fields or areas of construction to be performed, as required by law. At the option of the board, the construction management entity, after having been selected, may be required to offer a guaranteed maximum price or a guaranteed completion date; in which case, the construction management entity must secure an appropriate surety bond pursuant to s. 255.05 and must hold construction subcontracts. The criteria for selecting a construction management entity may ~~shall~~ not unfairly penalize an entity that has relevant experience in the delivery of construction projects of similar size and complexity by methods of delivery other than construction management.

(d) Selecting a program management entity, pursuant to s. 255.103 or the process provided by s. 287.055, that would act as the agent of the board and would be responsible for schedule control, cost control, and coordination in providing or procuring planning, design, and construction services. The program management entity must consist of or contract with licensed or registered professionals for the specific areas of design or construction to be performed as required by law. The program management entity may retain necessary design professionals selected under the process provided in s. 287.055. At the option of the board, the program management entity, after having been selected, may be required to offer a guaranteed maximum price or a guaranteed completion date, in which case the program management entity must secure an appropriate surety bond pursuant to s. 255.05 and must hold design and construction subcontracts. The criteria for selecting a program management entity may ~~shall~~ not unfairly penalize an entity that has relevant experience in the delivery of construction programs of similar size and complexity by methods of delivery other than program management.

(e) Day-labor contracts not exceeding \$280,000 for construction, renovation, remodeling, or maintenance of existing facilities. This amount shall be adjusted annually based upon changes in the Consumer Price Index.

(2) For the purposes of this section, “day-labor contract” means a project constructed using persons employed directly by a board or by contracted labor.

(3) Contractors, design-build firms, contract management entities, program management entities, or any other person under contract to construct facilities or major additions to facilities may use any construction techniques allowed by contract and not prohibited by law, including, but not limited to, those techniques known as fast-track construction scheduling, use of components, and systems building process.

(4) Except as otherwise provided in this section and s. 481.229, the services of a registered architect must be used for the development of plans for the erection, enlargement, or alteration of any educational facility. The services of a registered architect are not required for a minor renovation project for which the construction cost is less than \$50,000 or for the placement or hookup of relocatable educational facilities that conform to ~~with~~ standards adopted under s. 1013.37. However, boards must provide compliance with building code requirements and ensure that these structures are adequately anchored for wind resistance as required by law. A district school board shall reuse existing construction documents or design criteria packages if such reuse is feasible and practical. If a school district's 5-year educational facilities work plan includes the construction of two or more new schools for students in the same grade group and program, such as elementary, middle, or high school, the district school board must ~~shall~~ require that prototype design and construction be used for the construction of these schools. Notwithstanding s. 287.055, a board may purchase the architectural services for the design of educational or ancillary facilities under an existing contract agreement for professional services held by a district school board in the State of Florida, provided that the purchase is to the economic advantage of the purchasing board, the services conform to the standards prescribed by rules of the State Board of Education, and such reuse is not without notice to, and permission from, the architect of record whose plans or design criteria are being reused. Plans must ~~shall~~ be reviewed for compliance with the State Requirements for Educational Facilities. Rules adopted under this section must establish uniform prequalification, selection, bidding, and negotiation procedures applicable to construction management contracts and the design-build process. This section does not supersede any small, woman-owned, or minority-owned business enterprise preference program adopted by a board. Except as otherwise provided in this section, the negotiation procedures applicable to construction management contracts and the design-build process must conform to the requirements of s. 287.055. A board may not modify any rules regarding construction management contracts or the design-build process.

Section 9. Paragraph (h) of subsection (1) of section 1013.64, Florida Statutes, is amended to read:

1013.64 Funds for comprehensive educational plant needs; construction cost maximums for school district capital projects.—Allocations from the Public Education Capital Outlay and Debt Service Trust Fund to the various boards for capital outlay projects shall be determined as follows:

(1)

(h) University boards of trustees may utilize funds appropriated pursuant to this section for replacement of minor facilities ~~provided that such projects do not exceed \$1 million in cost or 10,000 gross square feet in size.~~ Minor facilities may not be replaced from funds provided pursuant to this section unless the board determines that the cost of repair or renovation is greater than or equal to the cost of replacement.

Section 10. This act shall take effect July 1, 2023.

Approved by the Governor May 17, 2023.

Filed in Office Secretary of State May 17, 2023.