

SECOND REGULAR SESSION

# SENATE BILL NO. 734

89TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR CASKEY.

Read 1st time January 15, 1998, and 1,000 copies ordered printed.

TERRY L. SPIELER, Secretary.

S2970.02I

## AN ACT

To repeal sections 360.020, 360.040, 360.045, 360.055, 360.075, 360.080, 360.095, 360.100, 360.105, 360.107 and 360.108, RSMo 1994, and section 360.015, RSMo Supp. 1997, and to enact in lieu thereof thirteen new sections relating to the financing of certain health, education and cultural facilities, with an emergency clause.

*Be it enacted by the General Assembly of the State of Missouri, as follows:*

Section A. Sections 360.020, 360.040, 360.045, 360.055, 360.075, 360.080, 360.095, 360.100, 360.105, 360.107 and 360.108, RSMo 1994, and section 360.015, RSMo Supp. 1997, are repealed and thirteen new sections enacted in lieu thereof, to be known as sections 360.015, 360.020, 360.040, 360.045, 360.047, 360.055, 360.075, 360.080, 360.095, 360.100, 360.105, 360.107 and 360.108, to read as follows:

360.015. As used in sections 360.010 to 360.140, unless the context clearly requires otherwise, the following terms mean:

(1) "Authority", the health [and], educational **and cultural** facilities authority of the state of Missouri created by sections 360.010 to 360.140;

(2) "Costs", as applied to health [or], educational **or cultural** facilities financed in whole or in part under the provisions of sections 360.010 to 360.140 includes the sum total of all reasonable or necessary expenses incidental to the acquisition, construction, reconstruction, repair, alteration, improvement, and extension of the facilities, including without limitation the expense of studies and surveys; land title and mortgage guaranty policies; architectural and engineering services; legal, organizational, marketing, or other special services; financing, acquiring,

**EXPLANATION--Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.**

demolishing existing structures, constructing, equipping, and developing the sites of new and rehabilitated buildings; rehabilitating, reconstructing, repairing, or remodeling existing buildings; provisions for working capital; reserves for principal and interest and for extensions, enlargements, additions, replacements, renovations, and improvements; and all other necessary and incidental expenses including interest during construction on bonds issued to finance the facilities and for a period subsequent to the estimated date of completion of the facilities;

**(3) "Cultural facilities", a structure or building, whether such structure or building is located within the state of Missouri or outside the state of Missouri, suitable for use for the purposes of a cultural institution, including, without limitation, an administrative facility, aquarium, assembly hall, auditorium, botanical garden, concert facility, exhibition hall, gallery, greenhouse, library, museum, recreational facility, scientific laboratory, theater or zoological facility, buildings on the National Register of Historic Places, and shall also include, without limitation, books, works of art or music, animal, plant or aquatic life or other items for display, exhibition or performance; place in which to house maintenance equipment and supplies, storage place, and place in which to locate utilities, as well as other structures or appurtenances related thereto required or useful for operation of a cultural institution, including parking lots, garages, and other buildings or structures essential or convenient for the orderly conduct of such an institution and furnishings, equipment, machinery, and appurtenances or other particular assets necessary or useful in the development, establishment or operation of a particular service or structure in the manner for which its use is intended, including, without limitation, the acquisition, preparation and development of all lands necessary or convenient as a site or sites for any of the foregoing; but shall not include any property used or to be used for sectarian instruction or study or as a place for religious worship or any property used or to be used primarily in connection with any part of a program of a school or department of divinity of any religious denomination;**

**(4) "Cultural institution", any public or private association, corporation, institution, partnership, limited partnership, joint venture or other entity not operated for private or corporate profit or any public association, corporation or institution which is, or is owned and operated by or on behalf of, a political subdivision of the state of Missouri, which engages in the cultural, intellectual, scientific, educational or artistic enrichment of the people, including, without limitation, aquaria, botanical gardens, historical organizations, libraries, museums, performing arts organizations, scientific and zoological organizations; and any of the foregoing described entities which is authorized by law to provide or operate cultural facilities outside the state of Missouri if such entity, or an affiliate, also operates a cultural facility within the state of Missouri or maintains a regional or national headquarters within the state of Missouri;**

[(3)] (5) "Educational facilities", a structure **or building, whether such structure or building is located within the state of Missouri or outside the state of Missouri**, suitable for use as a dormitory or other housing, including housing for staff members, dining hall, student union, administration building, academic building, library, laboratory, place in which to conduct research, classroom, place for athletic activities, place in which to provide health care, place in which to house maintenance equipment and supplies, storage place, and place in which to locate utilities, as well as other structures or appurtenances related thereto required or useful for the instruction of students in the conducting of research at, or the operation of an educational institution, as defined in sections 360.010 to 360.140, including parking lots, garages, and other buildings or structures essential or convenient for the orderly conduct of such an institution and **[also including] all necessary, useful or related** furnishings, equipment, machinery, and appurtenances necessary or convenient for the operation of a particular service or structure in the manner for which its use is intended, **including, without limitation, the acquisition, preparation and development of all lands necessary or convenient as a site or sites for any of the foregoing**, but shall not include such items as books, fuel, supplies, or other items which customarily are deemed to constitute a current operating expense, and shall not include any property used or to be used for sectarian instruction or study or as a place for religious worship or any property used or to be used primarily in connection with any part of a program of a school or department of divinity of any religious denomination;

[(4)] (6) "Educational institution", any public or private association, corporation, institution, partnership, limited partnership, joint venture or other entity, or any public association, corporation or institution which is, or is owned and operated by, a political subdivision of the state of Missouri, not operated for private or corporate profit **or any public association, corporation or institution which is, or is owned and operated by or on behalf of, a political subdivision of the state of Missouri**, authorized by law to provide or operate educational facilities and to provide a program of education in the state of Missouri; **and any of the foregoing described entities which is authorized by law to provide or operate educational facilities and to provide a program of education outside the state of Missouri if such entity, or an affiliate of such entity, also operates an educational facility within the state of Missouri or maintains a regional or national headquarters within the state of Missouri**; and any state educational institution as defined in subdivision (5) of section 176.010, RSMo[, and "participating educational institution", any such educational institution which, pursuant to the provisions of sections 360.010 to 360.140, undertakes the financing and construction or acquisition of educational facilities or undertakes the refunding or refinancing of outstanding obligations, of a mortgage, or of advances or loans as provided in and permitted by sections 360.010 to 360.140];

[(5)] (7) "Health facilities", a structure or building, **whether such facility or building**

**is located within the state of Missouri or outside the state of Missouri**, suitable for use as a hospital, clinic, nursing home, home for the aged or infirm, or other health care facility, laboratory, laundry, residence facility or housing for nurses, doctors, interns, staff members, employees, students at such health facilities or their immediate families, and for physically or mentally handicapped persons, place for administrative offices, place in which to conduct research, place in which to house maintenance equipment and supplies, storage place, place in which to locate utilities, auditorium, dining hall, place for food service and preparation, place in which to house fire fighting equipment, place in which to provide mental and physical health care and dental care, nursing school, medical teaching school, and place in which to house offices; parking lots, garages, and buildings or structures in which to house supporting services; and all necessary, useful, and related furnishings, equipment, machinery, and appurtenances, or other assets, tangible or intangible, including but not limited to assets related to health delivery systems or networks which are necessary or useful in the development, establishment or operation of a participating health institution; including without limitation the acquisition, preparation, and development of all lands necessary or convenient as a site or sites for any of the foregoing, but shall not include any property used or to be used for sectarian instruction or study or as a place for religious worship or any property used or to be used primarily in connection with any part of a program of a school or department of divinity of any religious denomination;

**[(6)] (8) "Health institution", any of the following entities authorized by law to provide or operate health facilities in the state of Missouri, or outside the state of Missouri if such entity, or an affiliate of such entity, also operates a health facility within the state of Missouri or maintains a regional or national headquarters within the state of Missouri:**

(a) Any public or private association, corporation, institution, partnership, limited partnership, joint venture or other entity, or any public association, corporation or institution which is, or is owned and operated by, a political subdivision of the state of Missouri, not operated for private or corporate profit authorized by law to provide or operate health facilities in the state of Missouri;

(b) Any network or organization of health care providers, however organized; any integrated health care delivery system; any joint venture, partnership or similar arrangement between or among health care providers; any health care purchasing alliance; any health insurers and third-party administrators which are participants in a system, network, joint venture, or partnership that provides health services; any organization which, as its primary purpose, provides supporting services to one or more health institutions; and any foundation which supports a health institution or promotes and encourages health policy or medical research and public health; and

(c) Any of the entities listed in paragraph (a) or (b) of this subdivision whether operated

for profit or not operated for private or corporate profit;

[(7)] **(9)** "Missouri college savings bonds", bonds, notes or other evidences of indebtedness issued pursuant to sections 360.010 to 360.140 and designated as such;

**(10) "Participating cultural institution", any such cultural institution which, pursuant to the provisions of sections 360.010 to 360.140, undertakes the financing and construction or acquisition of cultural facilities or undertakes the refunding or refinancing of outstanding obligations, of a mortgage, or of advances or loans as provided in and permitted by sections 360.010 to 360.140 with respect to a cultural institution;**

**(11) "Participating educational institution", any such educational institution which, pursuant to the provisions of sections 360.010 to 360.140, undertakes the financing and construction or acquisition of educational facilities or undertakes the refunding or refinancing of outstanding obligations, of a mortgage, or of advances or loans as provided in and permitted by sections 360.010 to 360.140 with respect to an educational facility;**

[(8)] **(12)** "Participating health institution", any health institution which, pursuant to the provisions of sections 360.010 to 360.140, undertakes the financing and construction or acquisition of health facilities or undertakes the refunding or refinancing of outstanding obligations, of a mortgage, or of advances or loans as provided in and permitted by sections 360.010 to 360.140 **with respect to a health institution;**

[(9)] **(13)** "Revenues", with respect to health [or], educational **or cultural** facilities, the rents, fees, charges, and other income derived from the operation of the facilities.

360.020. There is hereby created a body politic and corporate to be known as the "Health [and], Educational **and Cultural** Facilities Authority of the State of Missouri". The authority is hereby constituted a public instrumentality and body corporate, and the exercise by the authority of the powers conferred by sections 360.010 to 360.140 shall be deemed and held to be the performance of an essential public function. The authority shall consist of seven members to be appointed by the governor, by and with the advice and consent of the senate, each of whom shall be a resident of the state. Not more than four out of the seven members of the authority shall be of the same political party. In making appointments to the authority, the governor shall take into consideration nominees recommended to him for appointment by professional organizations of hospitals, operators of long term health care facilities, higher education associations, investment bankers, and architects. The members of the authority first appointed by the governor shall be appointed as follows: Two for a term of one year, two for a term of two years, and one each for terms of three, four, and five years, respectively, from the date of appointment, or until their successors shall have been appointed and shall have qualified. The initial term of each such member is to be designated by the governor at the time of making the appointment. Upon the

expiration of the initial terms of office, successor members shall be appointed for terms of five years and shall serve until their successors shall have been appointed and shall have qualified. Any member shall be eligible for reappointment. The governor shall fill any vacancy for the remainder of any unexpired term. Any member of the authority may be removed by the governor for misfeasance, malfeasance, willful neglect of duty, or other cause after notice and a public hearing unless the notice or hearing shall be expressly waived in writing.

360.040. Any other provision of the law to the contrary notwithstanding, it shall not be or constitute a conflict of interest for a trustee, director, officer, employee, owner or partner of any health institution, educational institution, **cultural institution**, financial institution, investment banking firm, brokerage firm, commercial bank or trust company, architecture firm, insurance company, or any other firm, person, or corporation to serve as a member of the authority, provided such trustee, director, officer, employee, owner or partner shall abstain from deliberation, action, and vote by the authority in each instance where the business affiliation or any such trustee, director, officer, employee, owner or partner is involved.

360.045. The authority shall have the following powers together with all powers incidental thereto or necessary for the performance thereof:

- (1) To have perpetual succession as a body politic and corporate;
- (2) To adopt bylaws for the regulation of its affairs and the conduct of its business;
- (3) To sue and be sued and to prosecute and defend, at law or in equity, in any court having jurisdiction of the subject matter and of the parties;
- (4) To have and to use a corporate seal and to alter the same at pleasure;
- (5) To maintain an office at such place or places in the state of Missouri as it may designate;
- (6) To determine the location and construction of any facility to be financed under the provisions of sections 360.010 to 360.140, and to construct, reconstruct, repair, alter, improve, extend, maintain, lease, and regulate the same; and to designate a participating health institution [or], a participating educational institution **or a participating cultural institution**, as the case may be, as its agent to determine the location and construction of a facility undertaken by such participating health institution [or], participating educational institution **or a participating cultural institution**, as the case may be, under the provisions of sections 360.010 to 360.140, to construct, reconstruct, repair, alter, improve, extend, maintain, and regulate the same, and to enter into contracts for any and all of such purposes including contracts for the management and operation of the facility;
- (7) To lease to a participating health institution [or], a participating educational institution **or a participating cultural institution**, as the case may be, the particular health [or], educational **or cultural** facility or facilities, as the case may be, upon such terms and conditions as the authority shall deem proper; to charge and collect rent therefor; to terminate any

such lease upon the failure of the lessee to comply with any of the obligations thereof; to include in any such lease, if desired, provisions that the lessee thereof shall have options to renew the term of the lease for such period or periods at such rent as shall be determined by the authority or to purchase any or all of the particular leased facility or facilities; and, upon payment of all of the indebtedness incurred by the authority for the financing of the facility or facilities, to convey any or all of such facility or facilities to the lessee or lessees thereof. Every lease agreement between the authority and an institution must contain a clause obligating the institution not to use the leased land, nor any facility located thereon, for sectarian instruction or study or as a place of religious worship, or in connection with any part of the program of a school or department of divinity of any religious denomination; to insure that this covenant is honored, each lease agreement shall allow the authority to conduct inspections, and every conveyance of title to an institution shall contain a restriction against use for any sectarian purpose;

(8) To issue its bonds, notes, or other obligations for any of its corporate purposes and to refund the same, all as provided in sections 360.010 to 360.140;

(9) To fix and revise from time to time and make and collect rates, rents, fees, and charges for the use of and services furnished or to be furnished by any facility or facilities or any portion thereof and to contract with any person, firm, or corporation or other body, public or private, in respect thereof; except that the authority shall have no jurisdiction over rates, rents, fees, and charges established by a participating educational institution for its students [or], established by a participating health institution for its patients **or established by a cultural institution for its attendees** other than to require that such rates, rents, fees, and charges by such an institution be sufficient to discharge the institution's obligations to the authority;

(10) To establish rules and regulations for review by or on behalf of the authority of the retention or employment by a participating health institution [or], by a participating educational institution **or by a participating cultural institution**, as the case may be, of consulting engineers, architects, attorneys, accountants, construction and finance experts, superintendents, managers, and such other employees and agents as shall be determined to be necessary in connection with any such facility or facilities and for review by or on behalf of the authority of all reports, studies, or other material prepared in connection with any bond issue of the authority for any such facility or facilities. The costs incurred or to be incurred by a participating health institution [or], by a participating educational institution **or by a participating cultural institution** in connection with the review shall be deemed, where appropriate, an expense of constructing the facility or facilities or, where appropriate, shall be deemed an annual expense of operation and maintenance of the facility or facilities;

(11) To receive and accept from any public agency loans or grants for or in aid of the construction of a facility or facilities, or any portion thereof, or for equipping the same and to receive and accept grants, gifts, or other contributions from any source;

(12) To mortgage or pledge all or any portion of any facility or facilities, including any other health [or], educational **or cultural** facility or facilities conveyed to the authority for such purpose and the site or sites thereof, whether then owned or thereafter acquired, for the benefit of the holders of the bonds of the authority issued to finance such facility or facilities or any portion thereof or issued to refund or refinance outstanding indebtedness of a [private] health institution [or a private], **an** institution of higher education **or a cultural institution** as permitted by sections 360.010 to 360.140;

(13) To make loans to any participating health institution [or], participating educational institution **or a participating cultural institution**, as the case may be, for the cost of any facility or facilities in accordance with an agreement between the authority and such participating health institution [or], participating educational institution **or a participating cultural institution**, as the case may be; except that no such loan shall exceed the total cost of such facility or facilities as determined by the participating health institution [or], participating educational institution **or a participating cultural institution**, as the case may be, and approved by the authority;

(14) To make loans to a participating health institution [or], participating educational institution **or a participating cultural institution**, as the case may be, to refund outstanding obligations, mortgages, or advances issued, made, or given by the institution for the cost of its facility or facilities, including the power to issue bonds and make loans to a participating health institution [or], participating educational institution **or a participating cultural institution**, as the case may be, to refinance indebtedness incurred for facilities undertaken and completed prior to or after September 28, 1975, whenever the authority finds that the financing is in the public interest, alleviates a financial hardship upon the participating health institution [or], participating educational institution **or a participating cultural institution**, as the case may be, and results in a lesser cost of patient care [or], cost of education **or cost of cultural activity** and a saving to third parties, including state or federal governments, and to others who must pay for the care [or], education **or cultural activity**;

(15) To inspect any and all facilities assisted by the authority in any way to enforce the prohibition against sectarian or religious use at any time; and

(16) To do all things necessary and convenient to carry out the purposes of sections 360.010 to 360.140.

**360.047. 1. The authority shall have the power to assist, coordinate and participate with governmental authorities and governmental issuers of states other than the state of Missouri ("out-of-state issuers") in connection with issuance of bonds, notes or other evidence of indebtedness by said out-of-state issuers for educational facilities, health facilities and cultural facilities located within the state of Missouri.**

**2. In connection with such a financing by out-of-state issuers, the authority is**



**hereby designated as the only entity in the state of Missouri which may conduct the public hearing of the applicable governmental unit required by Section 147(f) of the Internal Revenue Code of 1986, as amended, and the governor of the state of Missouri is hereby designated as the only entity in the state of Missouri which may be the applicable elected representative which must give approval on behalf of the applicable governmental unit pursuant to Section 147(f) of the Internal Revenue Code of 1986, as amended.**

**3. Following such hearing, the authority shall determine whether or not the financing should proceed with respect to educational facilities, health facilities or cultural facilities located within the state of Missouri by an out-of-state issuer. If it determines that the financing should not proceed, the financing shall not proceed relative to the Missouri facilities.**

360.055. 1. The authority is authorized and empowered directly, or by or through a participating health institution [or], participating educational institution **or participating cultural institution**, as the case may be, acting as an agent of the authority, to acquire by purchase, lease, gift, devise, or otherwise such lands, structures, real or personal property, rights-of-way, franchises, easements, and other interests in lands, including lands lying under water and riparian rights which are located within or without the state, as the authority may deem necessary or convenient for the construction or acquisition or operation of any facility or facilities, but only upon such terms as may be considered by the authority to be reasonable, and to take title thereto in the name of the authority or in the name of the participating health institution [or], the participating educational institution **or participating cultural institution**, as the case may be, as the agent of the authority.

2. Notwithstanding any other provisions of law to the contrary, all partnerships, limited partnerships, joint ventures or other entities or any public association, corporation or institution which is, or is owned or operated by, any political subdivision of the state of Missouri, which constitutes a participating educational institution [or], a participating health institution **or a participating cultural institution** pursuant to section 360.015 shall have the power to borrow funds from the authority or otherwise finance through the authority pursuant to sections 360.010 to 360.140, to furnish a security interest in any of their revenues or properties to secure the borrowings, to issue notes or other evidence of indebtedness to evidence thereof upon such terms as such borrowing entity shall determine and to enter into leases, contracts, loan agreements and other instruments with the authority in connection therewith.

360.075. 1. The principal of and interest on any bonds issued by the authority shall be secured by a pledge of the revenues, rentals, and receipts out of which the same shall be made payable and may be secured by a trust indenture or mortgage or deed of trust, including assignment of leases or other contract rights of the authority thereunder, covering all or any part

of the facilities from which the revenues, rentals, or receipts so pledged may be derived, including any enlargements of and additions to any such facilities thereafter made. The resolution under which the bonds are authorized to be issued and any such trust indenture, mortgage, or deed of trust may contain any agreements and provisions respecting the maintenance of the properties covered thereby, the fixing and collecting of rentals for any portions thereof leased by the authority to others, the creation and maintenance of special funds from such revenues, rentals, or receipts, and the rights and remedies available in the event of default, including the designation of a trustee, all as the authority shall deem advisable and not in conflict with the provisions hereof. Each pledge, agreement, lease, indenture, mortgage, and deed of trust made for the benefit or security of any of the bonds of the authority shall continue effective until the principal of and interest on the bonds for the benefit of which the same were made shall have been fully paid or provisions for such payment duly made. In the event of a default in the payment or in any agreement of the authority made as a part of the contract under which the bonds were issued, whether contained in the resolution authorizing the bonds or in any trust indenture, mortgage, or deed of trust executed as security therefor, the payment or agreement may be enforced by suit, mandamus, the appointment of a receiver in equity, foreclosure of any mortgage or deed of trust, or any one or more of these remedies.

2. In addition to the provisions of subsection 1 of this section, bonds of the authority may be secured by a pooling of leases whereby the authority may assign its rights, as lessor, and pledge rents under two or more leases of facilities with two or more participating health institutions [or], participating educational institutions **or participating cultural institutions**, as lessees respectively, upon such terms as may be provided in the resolutions of the authority or as may be provided in a trust indenture authorized by the authority.

360.080. Bonds issued under the provisions of sections 360.010 to 360.140 shall not be deemed to constitute a debt or liability of the state or of any political subdivision thereof or a pledge of the full faith and credit of the state or of any such political subdivision, but the bonds shall be payable solely from the funds provided for in sections 360.010 to 360.140. The issuance of bonds under the provisions of sections 360.010 to 360.140 shall not, directly, indirectly, or contingently, obligate the state or any political subdivision thereof to levy any form of taxation therefor or to make any appropriation for their payment. Nothing in this section shall prevent or be construed to prevent the authority from pledging the full faith and credit of a participating health institution [or], participating educational institution **or participating cultural institution**, as the case may be, to the payment of bonds authorized pursuant to sections 360.010 to 360.140. Nothing in sections 360.010 to 360.140 shall be construed to authorize the authority to create a debt of the state within the meaning of the constitution or statutes of the state of Missouri, and each bond issued by the authority pursuant to the provisions of sections 360.010 to 360.140 shall be payable and shall state on its face that it is payable solely from the funds pledged

for its payment in accordance with the resolution authorizing its issuance or any trust indenture or mortgage or deed of trust executed as security therefor. The state shall not be liable in any event for the payment of the principal of or interest on any bonds of the authority or for the performance of any pledge, mortgage, obligation, or agreement of any kind whatsoever which may be undertaken by the authority. No breach of any such pledge, mortgage, obligation, or agreement may impose any pecuniary liability upon the state or any charge upon the general credit or taxing power of the state.

360.095. 1. When an application is made to the authority by any health institution [or], educational institution **or cultural institution** for financial assistance, the application shall be accompanied by an "initial planning service fee" in an amount determined by the authority, but in no event exceeding the lesser of ten thousand dollars or one-fourth of one percent of the principal amount of bonds contemplated to be issued pursuant to the application. The initial planning service fee shall be included in the cost of the facilities to be financed and shall not be refundable by the authority whether or not such application is approved. In addition to the foregoing, the authority may require each participating health institution [and], each participating educational institution **and each participating cultural institution** to pay directly, or as part of the cost of the acquisition of any facility or facilities, an additional annual service fee in an amount which shall be fixed from time to time by the authority, but which shall not exceed one-tenth of one percent of the principal amount of any bonds issued by the authority and then outstanding on behalf of any such institution. The additional annual service fee shall be paid in such installments as shall be fixed by the authority. It is anticipated that the fees shall be used for necessary administrative expenses and for necessary expenses incurred in determining the need for facilities in the area concerned, and, to that end, the authority may utilize recognized voluntary and official health planning [and], educational planning **and cultural planning** organizations and agencies at local, regional, and state levels as well as the state statutory bodies having health [or], educational **or cultural** facilities planning responsibilities.

2. In the event bonds are issued by the authority for the concurrent benefit of two or more participating health institutions [or two or more], participating educational institutions **or participating cultural institutions**, the fees to be paid to the authority under this section shall be prorated among the institutions involved in accordance with the amount of bond proceeds allocated to each participating institution.

360.100. When the principal of and interest on bonds issued by the authority to finance the cost of facilities or to refinance outstanding indebtedness of one or more participating health institutions [or], participating educational institutions **or participating cultural institutions**, as the case may be, including any bonds issued to refund and refinance such bonds, shall have been fully paid and retired or when adequate provision shall have been made fully to pay and retire the same and all other conditions of the resolution, the lease, the trust indenture, and the

mortgage or deed of trust, if any, authorizing and securing the same shall have been satisfied, the lien of the mortgage or deed of trust, if any, authorizing and securing the same shall have been satisfied, and the lien of the mortgage or deed of trust shall have been released in accordance with the provisions thereof, the authority promptly shall do all things and execute such deeds and conveyances as are necessary and required to convey its right, title, and interest in the facilities so financed and any other facilities mortgaged to secure the bonds to the participating health institution or institutions [or to], the participating educational institution or institutions **or the participating cultural institution or institutions**, as the case may be.

360.105. 1. Any other provision of sections 360.010 to 360.140 to the contrary notwithstanding, the authority may finance the cost of a health [or], educational **or cultural** facility or of health [or], educational **or cultural** facilities or refund outstanding indebtedness incurred prior to or after September 28, 1975, for the construction or acquisition of a health [or], educational **or cultural** facility or of health [or], educational **or cultural** facilities by issuing its bonds for the purpose of purchasing the securities of a participating health institution [or], a participating educational institution **or a participating cultural institution**. Any such securities shall have the same principal amounts, maturities, and interest rate or rates as the bonds so being issued, shall be secured by a first mortgage lien on the health [or], educational **or cultural** facility or facilities so being financed, subject to such exceptions as the authority may approve, and created by a mortgage instrument satisfactory to the authority, and may be insured or guaranteed by others. Any such bonds shall be secured by a pledge of the securities under the trust indenture or mortgage and deed of trust creating such bonds, shall be payable solely out of the payments to be made on the securities, and shall not exceed in principal amount the cost of the health [or], educational **or cultural** facility or facilities as determined by the participating health institution [or], the participating educational institution **or the participating cultural institution**, as the case may be, and approved by the authority. In other respects any such bonds shall be subject to the provisions of section 360.060 and the trust indenture or mortgage and deed of trust creating such bonds may contain such of the provisions set forth in section 360.075 as the authority may deem appropriate.

2. In the event that a health [or], educational **or cultural** facility is financed pursuant to this section, the title to the facility shall remain in the participating health institution [or], the participating educational institution **or participating cultural institution** owning the same, subject to the lien of the mortgage securing the securities then being purchased, and there shall be no lease of the facility between the authority and the institution.

3. The provisions of section 360.100 shall not apply to any health facility [or], educational facility **or cultural facility** financed pursuant to this section, but the authority shall return the securities purchased through the issuance of bonds hereunder to the participating health institution [or], the participating educational institution **or the participating cultural**

**institution**, as the case may be, issuing the securities when such bonds shall have been fully paid and retired or when adequate provision shall have been made to pay and retire the same fully, and all other conditions of the trust agreement or indenture creating such bonds shall have been satisfied and the lien thereof shall have been released in accordance with the provisions thereof.

360.107. 1. Notwithstanding any other provision of law to the contrary, in addition to other powers granted to the authority by sections 360.010 to 360.140, the authority shall have the power to issue bonds or notes for the purpose of making loans to, or purchasing the notes of, any educational institution [or], health institution **or cultural institution** for the purpose of financing working capital and all related costs of such financing, including, but not limited to, all costs, charges, fees and expenses of underwriters, advisory lawyers, consultants, accountants and of the authority. "Working capital" as used in this section means moneys to be used by, or on behalf of, an educational institution [or], health institution **or cultural institution** to pay or prepay maintenance or operation expenses or any other costs that would be treated as an expense item, under generally accepted accounting principles, in connection with the ownership or operation of an educational facility [or], health facility **or cultural facility**, including, but not limited to, reserves for maintenance or operation expenses, interest for not to exceed one year on any loan for working capital made pursuant to this part, and reserves for debt service with respect to, and any costs necessary or incidental to, that financing.

2. Bonds or notes issued pursuant to this section may be secured by a pledge of payments made to the authority by the educational institution [or], health institution **or cultural institution**, by the notes of the educational institution [or], health institution **or cultural institution**, or by a pooling of such payments or notes of two or more such entities. In connection with any financing pursuant to the power granted in this section, the authority shall have all power as set forth elsewhere by sections 360.010 to 360.140.

360.108. 1. Notwithstanding any other provision of law to the contrary, in addition to other powers granted to the authority by sections 360.010 to 360.140, the authority shall have the power to issue bonds or notes for the purpose of making loans to, or purchasing the notes of, any educational institution [or], health institution **or cultural institution** for the purpose of funding any self-insurance program or obligation or risk management program for the educational institution [or], health institution [for the educational institution or health institution] **or cultural institution** relative to professional liability, general liability, tort claims, and related fees and expenses incurred in the defense and settlement thereof, including attorney's fees, including, but not limited to, the funding of any reserves under an indenture with respect to same and all related costs of such financing, including, but not limited to, all costs, charges, fees and expenses of underwriters, advisory lawyers, consultants, accountants and of the authority. Bonds or notes issued pursuant to this section may be secured by a pledge of payments made to the authority by the educational institution [or], health institution **or cultural institution**, by the

notes of the educational institution [or], health institution **or cultural institution**, or by pooling of such payments or notes of two or more such entities. In connection with any financing pursuant to the power granted in this section, the authority shall have all power as set forth elsewhere in sections 360.010 to 360.140.

2. Any self-insurance program or obligation or risk management program funded pursuant to this section shall have the same effect as the purchase of insurance by the entity as otherwise provided by law, and, as to partnerships, limited partnerships, joint ventures or other entities or any public association, corporation or institution which is, or is owned or operated by, any political subdivision of the state which constitutes a participating educational institution [or], participating health institution **or participating cultural institution** shall have the same effect as a self-insurance plan adopted by the governing body of any political subdivision of the state.

Section B. Because of the need to facilitate the financing mechanisms for cultural institutions, this act is deemed necessary for the immediate preservation of the public health, welfare, peace and safety, and is hereby declared to be an emergency act within the meaning of the constitution, and this act shall be in full force and effect upon its passage and approval.

✓  
Bill

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