

State Board of Education
Consent Item
May 17, 2005

SUBJECT: Adoption of Resolutions Authorizing the Issuance and Sale of Not Exceeding \$400,000,000 State of Florida, Full Faith and Credit, State Board of Education Public Education Capital Outlay Refunding Bonds, 2005 Series [to be determined]

PROPOSED BOARD ACTION

Authorize the issuance and sale of the subject Public Education Capital Outlay refunding bonds by the Division of Bond Finance of the State Board of Administration.

AUTHORITY FOR STATE BOARD ACTION

Subsection (a)(2) of Section 9 of Article XII of the Constitution of Florida, as amended.

BACKGROUND INFORMATION

The Division of Bond Finance of the State Board of Administration is requesting the State Board of Education to adopt 1) the Thirty-seventh Supplemental Authorizing Resolution to the Master Authorizing Resolution adopted on July 21, 1992, authorizing the issuance of not exceeding \$400,000,000 State of Florida, Full Faith and Credit, State Board of Education Public Education Capital Outlay Refunding Bonds, 2005 Series [to be determined], and 2) a resolution authorizing the competitive sale and delivery of not exceeding \$400,000,000 of such bonds (the "Bonds").

The Thirty-seventh Supplemental Authorizing Resolution contains the authorization for bonds necessary to refinance a portion of certain outstanding Public Education Capital Outlay Bonds. The Bonds will be secured primarily by gross receipts taxes, and will be additionally secured by the full faith and credit of the State.

The sale resolution authorizes the Division of Bond Finance of the State Board of Administration to prepare and publish a notice of bond sale for the Bonds (via a competitive sale), authorizes the preparation and execution of a preliminary and final official statement, and provides certain other details and authorizations in connection with the sale and issuance of the Bonds.

Supporting Documentation Included: Supplemental Authorizing Resolution
Sale Resolution

Facilitator/Presenter: Jeanine Blomberg

STATE OF FLORIDA
FULL FAITH AND CREDIT
STATE BOARD OF EDUCATION
PUBLIC EDUCATION CAPITAL OUTLAY BONDS

THIRTY-SEVENTH SUPPLEMENTAL AUTHORIZING RESOLUTION

PROVIDING FOR THE
ISSUANCE OF
PUBLIC EDUCATION CAPITAL OUTLAY REFUNDING BONDS
2005 SERIES [TO BE DETERMINED]

May 17, 2005

A RESOLUTION SUPPLEMENTING A RESOLUTION ENTITLED “A RESOLUTION AUTHORIZING THE ISSUANCE OF STATE OF FLORIDA, FULL FAITH AND CREDIT, STATE BOARD OF EDUCATION PUBLIC EDUCATION CAPITAL OUTLAY BONDS, FOR THE PURPOSE OF FINANCING AND REFINANCING THE COST OF CAPITAL OUTLAY PROJECTS FOR THE STATE SYSTEM OF PUBLIC EDUCATION IN FLORIDA, PURSUANT TO SUBSECTION (A)(2) OF SECTION 9 OF ARTICLE XII OF THE CONSTITUTION OF FLORIDA, AS AMENDED; PROVIDING THE TERMS AND CONDITIONS UPON WHICH SUCH BONDS MAY BE ISSUED; AND PROVIDING AN EFFECTIVE DATE”, AND AUTHORIZING THE ISSUANCE OF NOT EXCEEDING \$400,000,000 PUBLIC EDUCATION CAPITAL OUTLAY REFUNDING BONDS, 2005 SERIES [TO BE DETERMINED] FOR THE PURPOSE OF REFUNDING ALL OR A PORTION OF THE OUTSTANDING CALLABLE STATE OF FLORIDA, FULL FAITH AND CREDIT, STATE BOARD OF EDUCATION PUBLIC EDUCATION CAPITAL OUTLAY BONDS, 1997 SERIES A AND 1998 SERIES E, AND PROVIDING AN EFFECTIVE DATE.

BE IT RESOLVED BY THE STATE BOARD OF EDUCATION OF FLORIDA:

ARTICLE I
AUTHORITY, DEFINITIONS AND FINDINGS

Section 1.01. AUTHORITY FOR THIS RESOLUTION. This Thirty-seventh Supplemental Authorizing Resolution is adopted pursuant to the provisions of the Act.

Section 1.02. DEFINITIONS. (a) All of the definitions contained in Section 1.02 of the Master Resolution shall be deemed applicable to this Thirty-seventh Supplemental Authorizing Resolution, except to the extent that the same are inconsistent or in conflict with the definitions set forth below.

(b) The following terms shall have the following meanings in this Thirty-seventh Supplemental Authorizing Resolution:

“Escrow Deposit Agreement” shall mean the agreement provided for in Section 4.02(a) of this Resolution.

“Federal Obligations” shall mean direct obligations of the United States of America, Resolution Funding Corporation (“REFCORP”) interest strips, or direct non-prepayable obligations the principal and interest on which are unconditionally guaranteed as to full and timely payment by the United States of America, none of which permit redemption prior to maturity at the option of the obligor. Federal Obligations shall not mean unit investment trusts and mutual funds.

“Master Resolution” shall mean the Master Resolution adopted by the State Board on July 21, 1992, authorizing the issuance of Public Education Capital Outlay Bonds.

“Parity Bonds” shall mean all Bonds which are currently Outstanding and any other Bonds which may be issued under the Master Resolution prior to the issuance of the Refunding Bonds.

“Refunded Bonds” shall mean all or a portion of the Outstanding State of Florida, Full Faith and Credit, State Board of Education Public Education Capital Outlay Bonds, 1997 Series A and 1998 Series E, which will be refunded by the Refunding Bonds.

“Refunding Bonds” shall mean the not exceeding \$400,000,000 Public Education Capital Outlay Bonds, 2005 Series [to be determined], issued pursuant to this Thirty-seventh Supplemental Authorizing Resolution.

“Retirement Fund” shall mean the State of Florida, Full Faith and Credit, State Board of Education, 2005 Series [to be determined] Public Education Capital Outlay Refunding Bonds Retirement Fund created pursuant to Section 4.01(c) hereof.

“Retirement (or Refunding) of the Refunded Bonds” or words of similar import, shall mean the payment of the principal of the Refunded Bonds, redemption premiums, if any, the interest payable on the Refunded Bonds through the date of redemption thereof, and the fees and expenses in connection with retirement of the Refunded Bonds.

“Thirty-seventh Supplemental Authorizing Resolution” shall mean this Thirty-seventh Supplemental Authorizing Resolution.

Section 1.03. FINDINGS. It is hereby found, determined and declared by the State Board as follows:

(a) That it is desirable and in the best interests of the citizens of Florida and of the State Board to refund the Refunded Bonds, thereby obtaining a lower net average interest cost rate.

(b) That the Refunded Bonds, or any portion thereof, may be refunded in accordance with Article XII, Section 9(a)(2) of the State Constitution and Section 215.61, Florida Statutes.

(c) That the amount of Refunding Bonds authorized to be issued by this Thirty-seventh Supplemental Authorizing Resolution, together with the Parity Bonds and the Prior Lien Obligations remaining Outstanding after the refunding contemplated hereby, does not exceed ninety per centum (90%) of the amount of such Refunding Bonds which the State Board has found and determined, and does by the adoption of this Thirty-seventh Supplemental Authorizing Resolution find and determine, can be serviced as to both principal and interest from the Gross Receipts Taxes accruing to the State System under the provisions of the Public Education Bond Amendment.

(d) That this State Board is legally authorized to issue the Refunding Bonds authorized by this Thirty-seventh Supplemental Authorizing Resolution pursuant to the terms, restrictions and conditions contained in the Master Resolution.

(e) That the Division of Bond Finance shall serve as the agent of the State Board with respect to the Refunding Bonds, pursuant to the provisions of Section 215.61(4), Florida Statutes.

ARTICLE II
AUTHORIZATION OF REFUNDING

There is hereby authorized the refunding of the Refunded Bonds to be accomplished in the manner hereinafter provided.

ARTICLE III
AUTHORIZATION AND TERMS OF REFUNDING BONDS

SECTION 3.01. AUTHORIZATION OF REFUNDING BONDS. Subject and pursuant to the provisions of this Thirty-seventh Supplemental Authorizing Resolution, bonds of the State Board are hereby authorized to be issued in the aggregate principal amount of not exceeding \$400,000,000. Such bonds shall each be designated “State of Florida, Full Faith and Credit, State Board of Education Public Education Capital Outlay Refunding Bonds, 2005 Series [to be determined]” (such series designation to be determined by the Director of the Division), provided, however, that such bonds may be sold and issued in one or more series, and may be sold in conjunction with new money Public Education Capital Outlay Bonds; if sold and issued in more than one series, the designation of each series of such bonds shall be determined by the Director of the Division. The Refunding Bonds shall be issued under and secured by the Master Resolution, as supplemented by this Thirty-seventh Supplemental Authorizing Resolution, and all the terms and provisions contained in the Master Resolution shall be applicable to the Refunding Bonds, except as expressly set forth herein, including the pledge of the Gross Receipts Taxes and the pledge of the Full Faith and Credit of the State of Florida to the payment of the principal, premium if any, and interest on the Refunding Bonds.

Section 3.02. DESCRIPTION OF REFUNDING BONDS. Except as provided by subsequent resolution adopted prior to the sale of any Series thereof, the Refunding Bonds shall be issued only as fully registered bonds without coupons in the denominations of \$5,000 or any integral multiple thereof; shall be dated and mature as determined pursuant to a subsequent resolution adopted by the State Board on or prior to the sale of the Refunding Bonds; shall bear interest at not exceeding the maximum lawful rate of interest authorized on the date of sale of the Refunding Bonds, payable semi-annually on June 1 and December 1 of each year; and shall be payable as to both principal and interest, shall be subject to registration, exchange, and transfer, shall be executed and authenticated, shall be subject to prior redemption in the manner, shall be in the form, and shall have such other terms as set forth in Article III of the Master Resolution.

The Refunding Bonds may be made redeemable at the option of the State Board upon such terms and conditions as determined pursuant to a subsequent resolution adopted by the State Board prior to the issuance of the Refunding Bonds.

ARTICLE IV
APPLICATION OF BOND PROCEEDS

SECTION 4.01. APPLICATION OF REFUNDING BOND PROCEEDS. Upon receipt of the proceeds of the Refunding Bonds, the State Board shall transfer and apply such proceeds as follows:

(a) The amount necessary to pay all costs and expenses of the Division of Bond Finance in connection with the preparation, sale and issuance of the Refunding Bonds, including a reasonable charge for the services of the Division of Bond Finance, shall be transferred to the Division of Bond Finance to be deposited in the Bond Proceeds Trust Fund, subject to disbursement of the funds to the Bond Fee Trust Fund and the Arbitrage Compliance Trust Fund pursuant to written instructions at the delivery of the Refunding Bonds unless such amount shall be provided from another legally available source.

(b) The accrued interest on the Refunding Bonds, plus an amount determined in the sole discretion of the State Board and the Division of Bond Finance as being necessary, together with such accrued interest, to provide for the payment of interest on the Refunding Bonds for a period not to exceed 12 months from the date of issuance of the Refunding Bonds shall be transferred to the Board of Administration and deposited in the Sinking Fund created by the Master Resolution.

(c) All remaining proceeds shall be transferred to the Board of Administration for deposit into a trust fund, hereby created, to be known as the "State of Florida, Full Faith and Credit, State Board of Education, 2005 Series [to be determined] Public Education Capital Outlay Refunding Bonds Retirement Fund" (hereinafter referred to as the "Retirement Fund"). Such amount, together with the income on the investment thereof and other available monies (if necessary), shall be sufficient to pay when due the entire principal of the Refunded Bonds, together with interest accrued and to accrue thereon to their respective maturity dates or, if called for redemption prior to maturity, such prior redemption dates and redemption premiums, if any, and the expenses and fees listed in the Escrow Deposit Agreement as hereinafter provided in Section 4.02(a) below. The Director of the Division of Bond Finance is authorized to determine the redemption date of the Refunded Bonds, provide for the publication of any notice of redemption and take any other actions necessary or desirable to refund and redeem the Refunded Bonds.

SECTION 4.02. RETIREMENT FUND. The moneys deposited by the Board of Administration in the Retirement Fund shall be administered and applied as follows:

(a) The Retirement Fund shall be held in irrevocable trust by the Board of Administration and, except as provided in subsection (b) of this Section 4.02, shall be applied solely to refund the Refunded Bonds and to the payment of the fees and expenses incurred in connection with such refunding. The application of the moneys in the Retirement Fund shall be made for said purposes pursuant to an Escrow Deposit Agreement to be entered into between the State Board and the Board of Administration, in the form normally utilized by the State Board.

(b) Moneys on deposit in the Retirement Fund shall be used to purchase Federal Obligations in accordance with the schedules given in the Escrow Deposit Agreement. The maturing Federal Obligations, the earnings thereon, and the cash on deposit in the Retirement Fund shall be sufficient to accomplish the refunding described above in Section 4.01(c). In the alternative, in the discretion of the Director of the Division of Bond Finance, moneys on deposit in the retirement fund shall be invested in the State Treasury, or in such other legally authorized investments, until such time as such funds are needed to effect the redemption of the Refunded Bonds.

Section 4.03. REGISTERED OWNERS NOT AFFECTED BY APPLICATION OF REFUNDING BOND PROCEEDS. The proceeds derived from the sale of the Refunding Bonds shall be applied and disbursed pursuant to the provisions of the Act and this Thirty-seventh Supplemental Authorizing Resolution. The Registered Owners of Refunding Bonds shall not have any responsibility whatsoever for the application or use of any of the proceeds derived from the sale of the Refunding Bonds, and the rights and remedies of the Registered Owners of Refunding Bonds and their right to payment, pursuant to the Public Education Bond Amendment and this Thirty-seventh Supplemental Authorizing Resolution, shall not be affected or impaired by the application or use of such proceeds. Upon the issuance of the Refunding Bonds authorized by this Thirty-seventh Supplemental Authorizing Resolution, all the covenants and agreements between the State Board and the Registered Owners of Refunding Bonds contained in this Thirty-seventh Supplemental Authorizing Resolution shall be valid and binding covenants and agreements between the State Board and the Registered Owners of Refunding Bonds without regard to the application of the proceeds of the Refunding Bonds.

ARTICLE V
APPLICATION OF PROVISIONS OF MASTER RESOLUTION
AND SECURITY FOR THE REFUNDING BONDS

The Refunding Bonds herein authorized shall for all purposes (except as herein expressly changed) be considered to be Additional Parity Bonds issued under the authority of the Master Resolution and shall be entitled to all the protection and security provided therein for the Parity Bonds.

The covenants and pledges contained in the Master Resolution (to the extent the same are not inconsistent with the provisions hereof) shall be applicable to the Refunding Bonds herein authorized in like manner as applicable to the Parity Bonds, and the Funds and Accounts established in the Master Resolution shall be continued and maintained as long as any of the Refunding Bonds and interest thereon issued hereunder are outstanding and unpaid. The principal of and interest on the Refunding Bonds herein authorized shall be payable from the Sinking Fund heretofore established by the Master Resolution on a parity with the Parity Bonds, and payment shall be made into such Sinking Fund from the Public Education Fund in amounts fully sufficient to pay the principal of and interest on the Refunding Bonds herein authorized as such principal and interest become due.

ARTICLE VI
MISCELLANEOUS

Section 6.01. SEVERABILITY OF PROVISIONS. If any one or more of the covenants, agreements or provisions of this Thirty-seventh Supplemental Authorizing Resolution shall be held contrary to any express provision of law, or contrary to the policy of express law though not expressly prohibited, or against public policy, or shall for any reason whatsoever be held invalid, then such covenants, agreements or provisions shall be null and void and shall be deemed separable from the remaining covenants, agreements or provisions and shall in no way affect the validity of any of the other covenants, agreements or provisions of this Thirty-seventh Supplemental Authorizing Resolution or of the Refunding Bonds.

Section 6.02. CONTINUING DISCLOSURE. (a) In order to comply with Rule 15c2-12 of the Securities and Exchange Commission, the State Board hereby agrees to provide or cause to be provided such information as may be required, from time to time, under such rule.

(b) The Commissioner or Deputy Commissioner of Education, in conjunction with the appropriate officer of the Division, is authorized and directed to execute and deliver any documents or agreements which are necessary to comply with the requirements of Rule 15c2-12 of the Securities and Exchange Commission.

Section 6.03. REPEAL OF INCONSISTENT RESOLUTIONS. All resolutions and parts of resolutions heretofore adopted pertaining to the subject matter of this Thirty-seventh Supplemental Authorizing Resolution, to the extent that they are inconsistent with this Thirty-seventh Supplemental Authorizing Resolution, are hereby repealed, revoked, and rescinded.

Section 6.04. TIME OF TAKING EFFECT. This Thirty-seventh Supplemental Authorizing Resolution shall take effect immediately upon its adoption.

ADOPTED ON May 17, 2005.

A RESOLUTION AUTHORIZING THE SALE OF NOT EXCEEDING \$400,000,000 STATE OF FLORIDA, FULL FAITH AND CREDIT, STATE BOARD OF EDUCATION PUBLIC EDUCATION CAPITAL OUTLAY REFUNDING BONDS, 2005 SERIES [TO BE DETERMINED].

BE IT RESOLVED BY THE STATE BOARD OF EDUCATION OF FLORIDA, A BODY CORPORATE UNDER SECTION 2 OF ARTICLE IX OF THE FLORIDA CONSTITUTION:

Section 1. That not exceeding \$400,000,000 State of Florida, Full Faith and Credit, State Board of Education Public Education Capital Outlay Refunding Bonds to be designated 2005 Series [to be determined] (or such other designation as may be determined by the director of the Division of Bond Finance) (the “Bonds”) heretofore authorized by a Master Resolution and a Thirty-seventh Supplemental Authorizing Resolution (collectively, the “Resolution”) adopted by the State Board of Education of Florida (the “Board of Education”) on the 21st day of July, 1992 and the 17th day of May, 2005, respectively, are hereby authorized to be sold at public sale on the date and at a time set out or provided for in the Notice of Bond Sale to be published as provided in this Resolution. The Bonds may be sold at different times in more than one series. If sold in more than one series, the authorizations contained in this resolution shall apply to each of such series. The Bonds may also be sold separately or combined with any other Public Education Capital Outlay Bonds authorized by the Board of Education to be sold.

Proposals for purchase of the Bonds shall be received at the office of the Division of Bond Finance, 1801 Hermitage Boulevard, Suite 200, Tallahassee, Florida, or at another location designated in the Notice of Bond Sale, from the time of publication of the Notice of Bond Sale until the time and date of sale specified or provided for in such Notice of Bond Sale.

Section 2. The Division of Bond Finance of the State Board of Administration (the “Division”), as the agent of the Board of Education, is hereby authorized to sell the Bonds; to publish, at its discretion, the Notice of Bond Sale or a short form thereof in The Bond Buyer, New York, New York, such publication to be not less than ten days prior to the date of sale; and to publish such Notice of Bond Sale in such other newspapers on such dates as may be deemed appropriate; provided, that if no bids are received at the time and place called or provided for by the Notice of Bond Sale, or if all bids received are rejected, such Bonds may again be offered for sale upon reasonable notice, the timing and manner of which shall be determined by the Director of the Division. Any prior publication of a Notice of Bond Sale, or short form thereof, is hereby ratified.

Section 3. The Director of the Division is hereby authorized to distribute a Notice of Bond Sale and a form of proposal for the sale of the Bonds. The Notice of Bond Sale shall be in such form as shall be determined by the Director of the Division, and shall contain such information as required by applicable law. Any prior distribution of a Notice of Bond Sale and form of proposal is hereby ratified.

Section 4. The Director of the Division is hereby authorized to have up to 3,500 copies of the Preliminary Official Statement and 3,500 copies of the Final Official Statement relating to the public offering of the Bonds printed and distributed; to contract with national rating services to rate the Bonds; to conduct information meetings; and to take such other actions as may be deemed appropriate for the dissemination of information relating to the sale of the Bonds. Any prior printing and distribution of a Preliminary Official Statement is hereby ratified.

Section 5. The Commissioner of Education or the Deputy Commissioner, Finance and Operations of the Department of Education and an Assistant Secretary of the Governing Board of the Division are hereby authorized and empowered to award said Bonds, when offered, on their determination of the best proposal submitted in accordance with the terms of the Notice of Bond Sale provided for herein. Such award shall be final. In the event of the absence of the Commissioner of Education and the Deputy Commissioner, Finance and Operations at the time bids are received, an Assistant Secretary of the Governing Board of the Division is authorized to act on behalf of the Board of Education in awarding the Bonds, with the concurrence of a representative designated by the Commissioner.

Section 6. The proper officials of the Board of Education are hereby authorized to execute the Bonds in the manner provided by the resolution authorizing the issuance of the Bonds, and the Division is hereby authorized to deliver such Bonds to the purchasers thereof upon payment of the purchase price, together with accrued interest to the date of delivery, and to distribute the proceeds of the Bonds as provided by the proceedings authorizing the issuance of the Bonds.

Section 7. The Bonds shall be dated, shall mature in such years and amounts, shall be payable, and shall be subject to redemption as provided by the Notice of Bond Sale and the Official Statement.

Section 8. In the event that market conditions preclude the sale of the principal amount of Bonds authorized to be sold by this resolution, then in such event, in order to sell the Bonds, the Director of the Division is hereby authorized to offer for sale a lesser principal amount than that set forth in this resolution.

Section 9. The appropriate officers and employees of the Board of Education and of the Division are authorized and empowered, collectively or individually, to take all actions and steps, to execute all instruments, documents, and contracts, and to take all other action on behalf of the Board of Education and the Division, in each case as they may deem necessary or desirable, in connection with the execution and delivery of the Bonds.

Section 10. All prior resolutions or parts of resolutions inconsistent with this resolution are hereby amended by this resolution but only to the extent of any such inconsistency.

Section 11. This resolution shall take effect immediately upon its adoption.

Adopted on May 17, 2005.