

**State Board of Education**  
**Consent Item**  
August 16, 2005

**SUBJECT:** Adoption of Resolutions Authorizing the Issuance and Sale of Not Exceeding \$616,300,000 State of Florida, Full Faith and Credit, State Board of Education Public Education Capital Outlay Bonds, 2005 Series

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**PROPOSED BOARD ACTION**

Authorize the issuance and sale of the subject Public Education Capital Outlay 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-eighth Supplemental Authorizing Resolution to the Master Authorizing Resolution adopted on July 21, 1992, authorizing the issuance of not exceeding \$616,300,000 State of Florida, Full Faith and Credit, State Board of Education Public Education Capital Outlay Bonds, 2005 Series [to be issued in multiple series], and 2) a resolution authorizing the competitive sale and delivery of not exceeding \$616,300,000 of such bonds (the "Bonds").

The Thirty-eighth Supplemental Authorizing Resolution contains the authorization for bonds necessary to finance public education capital outlay projects authorized during the 2005 legislative session. Bonds issued pursuant to the Thirty-eighth Supplemental Authorizing Resolution will be secured primarily by gross receipts taxes, and will be additionally secured by the full faith and credit of the State. The proceeds of such bonds will be used to finance capital outlay projects for public school districts, community colleges, and state universities.

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), and authorizes the printing and distribution of a preliminary and final official statement.

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**Supporting Documentation Included:** Supplemental Authorizing Resolution  
Sale Resolution

**Facilitator/Presenter:** Jeanine Blomberg

**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 \$616,300,000 PUBLIC EDUCATION CAPITAL OUTLAY BONDS, 2005 SERIES, FOR THE PURPOSE OF FINANCING CAPITAL OUTLAY PROJECTS FOR THE STATE SYSTEM OF PUBLIC EDUCATION; 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 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-eighth 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-eighth Supplemental Authorizing Resolution:

“Act” shall mean, in addition to the meaning ascribed thereto in the Master Resolution, Chapter 2005-70, Laws of Florida (the Fiscal Year 2005-2006 General Appropriations Act) adopted during the regular session of the 2005 Legislature.

“2005 Bonds” shall mean the Public Education Capital Outlay Bonds, 2005 Series issued pursuant to this Thirty-eighth Supplemental Authorizing Resolution.

“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.

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

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

(a) That the Capital Outlay Projects described herein are necessary for the improvement of the State System of Public Education in Florida and that the construction and financing of a portion of such projects shall be in accordance with the provisions of this Thirty-eighth Supplemental Authorizing Resolution and the Master Resolution.

(b) That the Legislature has found that the items and sums designated herein constitute authorized Capital Outlay Projects within the meaning of and as required by the Public Education Bond Amendment and other applicable laws.

(c) That the amount of 2005 Bonds herein authorized to be issued, together with the Outstanding Bonds and the Prior Lien Obligations, shall not exceed ninety percent (90%) of the amount of such bonds which can be serviced as to both principal and interest by the revenues derived from the Gross Receipts Taxes as determined at the date of issuance.

(d) That the Division of Bond Finance shall serve as the agent of the State Board with respect to the issuance of the 2005 Bonds pursuant to the applicable provisions of the State Bond Act.

## **ARTICLE II AUTHORIZATION OF CAPITAL OUTLAY PROJECTS**

**SECTION 2.01. AUTHORIZED PROJECTS.** Pursuant to the Public Education Bond Amendment and the Act, there is authorized the expenditure of the proceeds of the 2005 Bonds for the purpose of acquiring, building, constructing, altering, remodeling, improving, enlarging, equipping or renovating of Capital Outlay Projects for the State System of Public Education. The proceeds of the 2005 Bonds are hereby authorized to be expended for and on only those Capital Outlay Projects listed in the following Specific Appropriations, found in Chapter 2005-70, Laws of Florida:

Specific Appropriation 16;  
Specific Appropriation 17;  
Specific Appropriation 18;  
Specific Appropriation 19;  
Specific Appropriation 20;  
Specific Appropriation 21;  
Specific Appropriation 24; and  
Specific Appropriation 25,

provided that the aggregate amount expended for such projects listed under each Specific Appropriation may not exceed the total amount indicated for such Specific Appropriation, and, if applicable, may not exceed the total amount indicated for each category or institution within

each Specific Appropriation, and then only from those amounts appropriated from the Public Education Capital Outlay and Debt Service Trust Fund. Additionally, there shall be excluded from the foregoing Specific Appropriations any project (or portion thereof) that will be used for or in a "private business use" as determined under Section 141 of the Code.

**SECTION 2.02. COST OF CAPITAL OUTLAY PROJECTS.** The cost of the Capital Outlay Projects, in addition to the items set forth in the approved plans and specifications, or elsewhere in this Thirty-eighth Supplemental Authorizing Resolution, may also be deemed to include the following:

The acquisition of existing buildings and all lands or interests therein, and any other property, real or personal, appurtenant to or useful in the construction of the Projects; architectural, technical and engineering fees; legal fees; fees of a financial advisor, if any; expenses of the State Board relating to the issuance of the 2005 Bonds; fees and expenses of the Division of Bond Finance relating to the issuance of the 2005 Bonds; advertising of resolutions, notices of sale and other proceedings; court costs; plans, specifications and surveys; repayment of advances made by State agencies, School Districts, Community College Districts, State Universities, or from other legally available sources for the benefit of such Projects; interest to become due on the 2005 Bonds for a reasonable period of time from the date of delivery thereof; reasonable amounts for contingencies; and any other costs and expenses necessary or desirable for the completion of the Projects and of the financing thereof.

### **ARTICLE III AUTHORIZATION AND TERMS OF 2005 BONDS**

**SECTION 3.01. AUTHORIZATION OF 2005 BONDS.** Subject and pursuant to the provisions of this Thirty-eighth Supplemental Authorizing Resolution, bonds of the State Board are hereby authorized to be issued in the aggregate principal amount of not exceeding \$616,300,000. Such bonds shall each be designated "State of Florida, Full Faith and Credit, State Board of Education Public Education Capital Outlay Bonds, 2005 Series [appropriate identifying letter]." The 2005 Bonds shall be issued under and secured by the Master Resolution, as supplemented by this Thirty-eighth Supplemental Authorizing Resolution, and all the terms and provisions contained in the Master Resolution shall be applicable to the 2005 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 2005 Bonds.

**SECTION 3.02. DESCRIPTION OF 2005 BONDS.** Except as provided by subsequent resolution adopted prior to the sale of any Series thereof, the 2005 Bonds shall be issued only as fully registered bonds in the denominations of \$5,000 or integral multiples thereof; shall be dated and mature as determined pursuant to a resolution or resolutions adopted by the State Board prior to the sale of the 2005 Bonds; shall bear interest at not exceeding the maximum lawful rate of interest authorized on the date of sale of the 2005 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 in the form, and shall have such other terms as set forth in Article III of the Master Resolution. The 2005 Bonds may be made redeemable at the option of the State Board upon such terms and conditions as determined pursuant to a subsequent resolution or resolutions adopted by the State Board prior to the issuance of the 2005 Bonds. If issued in multiple Series, each Series shall have an identifying letter.

**SECTION 3.03. DELEGATION OF SALE OF THE 2005 BONDS.** The 2005 Bonds shall be sold at competitive sale and may be sold at one time or in multiple Series from time to time as hereinafter provided.

In order to take advantage of opportunities as and when they arise in the municipal market, the State Board hereby authorizes the Division of Bond Finance, as agent for the State Board, to determine the financing structure of the 2005 Bonds. The Division of Bond Finance, as agent for the State Board, is hereby authorized and directed to determine when, if, where and in what principal amount (if less than the full authorized amount) the 2005 Bonds shall be offered for sale, to determine the method(s) by which bids will be accepted, and to determine the specific fiscal details of the 2005 Bonds (or Series thereof) to be sold.

**SECTION 3.04. AWARD AND DELIVERY OF 2005 BONDS.** The Commissioner or Deputy Commissioner of Education and the Secretary or an Assistant Secretary of the Governing Board of the Division of Bond Finance are hereby authorized and empowered to award each Series of 2005 Bonds, when offered, on their determination of the best proposal submitted in accordance with the terms of the Notice of Bond Sale published in connection with the sale of such Series of 2005 Bonds. Such award shall be final. The Secretary or other appropriate officer shall report such award to the State Board. In the event of the absence of the Commissioner or Deputy Commissioner of Education at the time bids are received, the Secretary or an Assistant Secretary of the Governing Board of the Division of Bond Finance is authorized to act on behalf of the State Board in awarding each Series of 2005 Bonds, with the concurrence of a duly designated representative of the State Board.

The proper officials of the State Board are hereby authorized to execute the 2005 Bonds in the manner provided by the resolution authorizing the issuance of the 2005 Bonds, and the Division of Bond Finance is hereby authorized to deliver each Series of 2005 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 each Series of 2005 Bonds as provided by the proceedings authorizing the issuance of such 2005 Bonds.

The appropriate officers and employees of the State Board and of the Division of Bond Finance 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 State Board and the Division of Bond Finance, in each case as they may deem necessary or desirable, in connection with the execution and delivery of each Series of 2005 Bonds.

**SECTION 3.05. ACCOUNTS FOR 2005 BONDS.** There shall be created a subaccount in the Sinking Fund for each Series of the 2005 Bonds and an Amortization Account therein for each maturity of Term Bonds of the 2005 Bonds. Amounts deposited into such subaccounts shall be applied as provided in Section 4.03 of the Master Resolution.

**ARTICLE IV  
APPLICATION OF BOND PROCEEDS**

**SECTION 4.01. APPLICATION OF 2005 BOND PROCEEDS.** Upon receipt of the proceeds of the 2005 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 2005 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 2005 Bonds unless such amount shall be provided from another legally available source.

(b) The accrued interest on the 2005 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 2005 Bonds for a period not to exceed 12 months from the date of issuance of the 2005 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 deposited in the Public Education Fund and shall be used by the State Board to finance Capital Outlay Projects, as provided by this Thirty-eighth Supplemental Authorizing Resolution. Included within the meaning of financing Capital Outlay Projects is the expenditure of proceeds for encumbrances provided for pursuant to Section 1013.65(1), Florida Statutes.

**SECTION 4.02. ALLOCATION OF FUNDS.** As moneys become available pursuant to the Public Education Bond Amendment, including the proceeds of the 2005 Bonds authorized herein, the State Board may allocate such moneys among the Capital Outlay Projects authorized in Article II, in such amounts as the State Board in its discretion shall deem proper.

**SECTION 4.03. APPLICATION OF SURPLUS 2005 BOND PROCEEDS AND OTHER FUNDS.** (a) If the amount needed to complete any Capital Outlay Project heretofore authorized by the Florida Legislature and by the State Board is less than the specific sum certified forward by the Office of Planning and Budgeting, Executive Office of the Governor for such Capital Outlay Project then, pursuant to Section 1013.66, Florida Statutes, the surplus amount unexpended may be used to finance, in whole or in part, any Capital Outlay Project authorized by the Florida Legislature, or as provided in the Public Education Bond Amendment, and herein.

(b) If for any reason any of the proceeds from the sales of the 2005 Bonds shall not be expended for the Capital Outlay Projects described in Article II, the State Board may use such unexpended proceeds as provided in Section 4.03(b) of the Master Resolution.

**SECTION 4.04. REGISTERED OWNERS NOT AFFECTED BY APPLICATION OF 2005 BOND PROCEEDS.** The proceeds derived from the sale of the 2005 Bonds shall be applied and disbursed pursuant to the provisions of the Act and this Thirty-eighth Supplemental Authorizing Resolution. The Registered Owners of 2005 Bonds shall not have any responsibility whatsoever for the application or use of any of the proceeds derived from the sale of the 2005 Bonds, and the rights and remedies of the Registered Owners of 2005 Bonds and their right to payment, pursuant to the Public Education Bond Amendment and this Thirty-eighth Supplemental Authorizing Resolution, shall not be affected or impaired by the application or use of such proceeds. Upon the issuance of the 2005 Bonds authorized by this Thirty-eighth Supplemental Authorizing Resolution, all the covenants and agreements between the State Board and the Registered Owners of 2005 Bonds contained in this Thirty-eighth Supplemental Authorizing Resolution shall be valid and binding covenants and agreements between the State Board and the Registered Owners of 2005 Bonds without regard to the application of the proceeds of the 2005 Bonds.

**ARTICLE V  
APPLICATION OF PROVISIONS OF MASTER RESOLUTION  
AND SECURITY FOR THE 2005 BONDS**

The 2005 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 2005 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 2005 Bonds and interest thereon issued hereunder are outstanding and unpaid. The principal of and interest on the 2005 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 2005 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-eighth 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-eighth Supplemental Authorizing Resolution or of the 2005 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 of Bond Finance, 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-eighth Supplemental Authorizing Resolution, to the extent that they are inconsistent with this Thirty-eighth Supplemental Authorizing Resolution, are hereby repealed, revoked, and rescinded.

**SECTION 6.04. TIME OF TAKING EFFECT.** This Thirty-eighth Supplemental Authorizing Resolution shall take effect immediately upon its adoption.

**ADOPTED ON August 16, 2005.**

**A RESOLUTION AUTHORIZING THE SALE OF NOT EXCEEDING \$616,300,000 STATE OF FLORIDA, FULL FAITH AND CREDIT, STATE BOARD OF EDUCATION PUBLIC EDUCATION CAPITAL OUTLAY BONDS, 2005 SERIES.**

**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 \$616,300,000 State of Florida, Full Faith and Credit, State Board of Education Public Education Capital Outlay Bonds to be designated 2005 Series (the "Bonds") heretofore authorized by a Master Resolution and a Thirty-eighth Supplemental Authorizing Resolution (collectively, the "Resolution") adopted by the State Board of Education of Florida (the "State Board") on the 21st day of July, 1992 and the 16th day of August, 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. 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 State Board, 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, with the advice of bond counsel, 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 or Deputy Commissioner 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. The Secretary or other appropriate officer shall report such award to the State Board. In the event of the absence of the Commissioner or Deputy Commissioner at the time bids are received, an Assistant Secretary of the Governing Board of the Division is authorized to act on behalf of the State Board in awarding the Bonds, with the concurrence of a duly designated representative of the State Board.

**SECTION 6.** The proper officials of the State Board 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 State Board 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 State Board 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 August 16, 2005.**