

GENERAL ASSEMBLY OF NORTH CAROLINA
1987 SESSION

CHAPTER 1048
HOUSE BILL 2427

AN ACT TO AUTHORIZE THE ISSUANCE OF NOT IN EXCESS OF TWENTY-FIVE MILLION DOLLARS BONDS OF THE STATE TO PROVIDE FUNDS, WITH OTHER AVAILABLE FUNDS, FOR THE CONSTRUCTION, IN PHASES IF DESIRABLE, OF PARKING GARAGES IN DOWNTOWN RALEIGH, SUCH AUTHORIZED BONDS TO BE ISSUED WITHOUT AN ELECTION DURING THE BIENNIUM ENDED JUNE 30, 1989, IN AN AMOUNT NOT IN EXCESS OF SUCH AUTHORIZED AMOUNT AND NOT IN EXCESS OF TWO-THIRDS OF THE AMOUNT BY WHICH THE STATE'S OUTSTANDING INDEBTEDNESS SHALL HAVE BEEN REDUCED DURING THE 1985-87 BIENNIUM.

The General Assembly of North Carolina enacts:

Section 1. Short title. This act shall be known and may be cited as the "Capital Improvement Legislative Bond Act of 1988."

Sec. 2. Authorization of bonds. The State Treasurer is hereby authorized, by and with the consent of the Council of State as hereinafter provided, to issue and sell at one time or from time to time in the biennium ending June 30, 1989, bonds of the State to be designated "State of North Carolina Capital Improvement Bonds" in an aggregate principal amount not to exceed twenty-five million dollars (\$25,000,000), said amount not being in excess of two-thirds of the amount by which the State's outstanding indebtedness was reduced during the biennium ended June 30, 1987, for the purpose of providing funds, together with any other funds made available therefor, for the construction, in phases if desirable, of a multi-level parking garage and related facilities in downtown Raleigh, located on property known as the Seaboard property immediately north of the Albemarle Building to provide off-street parking for State employees and visitors including, without limitation, a pedestrian plaza and bridge, providing access to Lane Street, and a walkway over Salisbury Street to and at the level of the government mall, landscaping and necessary equipment, a multi-level parking garage and related facilities in downtown Raleigh, located on property known as the Bicentennial Mall, not more than three million five hundred thousand dollars (\$3,500,000) of bond proceeds to be expended therefor, to provide off-street parking for State employees and visitors including, without limitation, landscaping, necessary equipment, and connections (herein collectively sometimes called the "project").

The proceeds of said bonds are hereby appropriated for the project, which appropriation shall be in addition to all other appropriations heretofore made or which may be made at the session of the General Assembly at which this act is ratified, and

shall be expended and disbursed under the direction and supervision of the Director of the Budget.

The project must be so planned that its estimated cost will be within such limits that will allow the purchase of all needed equipment and provide drives, walks, grading and connections to all needed utilities so that when completed the facility may be fully utilized without requiring additional State funds. The proceeds of said bonds may be used to reimburse the State for any expenditures heretofore or hereafter made by the State for the project as advances in contemplation of reimbursement from the proceeds of said bonds.

Sec. 3. Disbursement of proceeds. The funds appropriated by Section 2 of this act shall be disbursed for the purposes provided in this act upon warrants drawn by the State Controller, which warrants shall not be drawn for any State department or agency until requisition has been approved by the Director of the Budget and which requisition shall be approved only after full compliance with the Executive Budget Act, Article 1 of Chapter 143 of the General Statutes. Any additional moneys which may be received by means of a grant or grants from the United States of America or any agency or department thereof or from any other source to aid in financing the cost of the project may be placed by the State Treasurer in the same fund or in a separate fund and, to the extent permitted by the terms of such grant or grants, shall be disbursed in the same manner and for the purposes mentioned in this act.

Sec. 4. Unexpended balance. The appropriation made in this act shall be expended only for the project described in Section 2 of this act, and any unexpended balance of such appropriation shall revert to the General Fund of the State on June 30, 1991, or upon such later date, if any, as the State Controller may determine, or upon completion of the project if prior to June 30, 1991, or such later date.

Sec. 5. Issuance of bonds and notes. (a) **Terms and conditions.** The bonds shall bear such date or dates, shall be serial or term bonds, shall mature in such amounts and at such times, not exceeding 40 years from their date or dates, shall be payable at such place or places, either within or without the United States, in such coin or currency of the United States of America as at the time of payment is legal tender for payment of public and private debts, shall bear interest at such rate or rates, which may vary from time to time, and may be made redeemable before maturity, at the option of the State or otherwise as may be provided by the State, at such price or prices and under such terms and conditions, all as may be fixed by the State Treasurer with the consent of the Council of State.

(b) **Signatures; form and denomination; registration.** The bonds may be issued as certificated or uncertificated obligations. If issued as certificated obligations, the bonds shall be signed on behalf of the State by the Governor or shall bear his facsimile signature, shall be signed by the State Treasurer or shall bear his facsimile signature, and shall bear the Great Seal of the State or a facsimile thereof shall be impressed or imprinted thereon. If the bonds shall bear the facsimile signatures of the Governor and the State Treasurer, the bonds shall also bear a manual signature which may be that of a bond registrar, trustee, paying agent or designated assistant of the State Treasurer. Should any officer whose signature or facsimile signature appears

on any bonds cease to be such officer before the delivery of the bonds, such signature or facsimile signature shall nevertheless have the same validity for all purposes as if the officer had remained in office until delivery and any bond may bear the facsimile signatures of such persons who at the actual time of the execution of such bond shall be the proper officers to sign any bond although at the date of such bond such persons may not have been such officers. The form and denomination of the bonds, including the provisions with respect to registration of the bonds and any system for their registration, shall be as the State Treasurer may determine in conformity with this act; provided, however, that nothing in this act shall prohibit the State Treasurer from proceeding, with respect to the issuance and form of the bonds, under the provisions of the Registered Public Obligations Act as well as this act.

(c) **Manner of sale; expenses.** Subject to determination by the Council of State as to the manner in which the bonds shall be offered for sale, whether at public or private sale and whether within or without the United States and whether by publishing notices in certain newspapers and financial journals, mailing notices, inviting bids by correspondence, negotiating contracts of purchase or otherwise, the State Treasurer is authorized to sell the bonds at one time or from time to time at such price as the State Treasurer may determine to be in the best interests of the State, including a price less than the face amount of the bonds. All expenses incurred in the preparation, sale and issuance of the bonds and any notes shall be paid by the State Treasurer from the proceeds of any such bonds and notes or any other available moneys.

Nothing in this act shall restrict the use of any bond or note proceeds in payment of the cost of any bond insurance or bond credit and liquidity facilities employed in connection with such bonds or notes, including without limitation, letters of credit, lines of credit and standby bond purchase agreements.

(d) Notes; repayment.

(1) By and with the consent of the Council of State, the State Treasurer is hereby authorized to borrow money at such rate or rates of interest as the State Treasurer may determine to be in the best interests of the State, which may vary from time to time, and to execute and issue notes of the State for the same, but only in the following circumstances and under the following conditions: (i) for anticipating the sale of any bonds to the issuance of which the Council of State shall have given consent, if the State Treasurer shall deem it advisable to postpone the issuance of such bonds; (ii) for the payment of interest upon or any installment of principal of any of the bonds then outstanding, if there shall not be sufficient funds in the State Treasury with which to pay the interest or installment of principal as they respectively become due; (iii) for the renewal of any loan evidenced by notes herein authorized.

(2) Funds derived from the sale of bonds may be used in the payment of any bond anticipation notes issued under this act. Funds provided by the General Assembly for the payment of interest on or principal of bonds shall be used in paying the interest on or principal of any notes

and any renewals thereof, the proceeds of which shall have been used in paying interest on or principal of the bonds.

(e) **Refunding bonds and notes.** By an with the consent of the Council of State, the State Treasurer is authorized to issue and sell, pursuant to the provisions of the State Refunding Bond Act, bonds or notes for the purpose of refunding any bonds or notes issued pursuant to this act. Such refunding bonds or notes may be combined with other issues of State bonds or notes similarly secured.

(f) **Tax exemption.** All of the bonds and notes authorized by this act and their transfer (including any profit made on the sale thereof) shall be exempt from all State, county and municipal taxation or assessment, direct or indirect, general or special, whether imposed for the purpose of general revenue or otherwise, including inheritance and gift taxes, and the interest on the bonds and notes shall not be subject to taxation as to income, nor shall the bonds or notes be subject to taxation when constituting a part of the surplus of any bank, trust company or other corporation.

(g) **Investment eligibility.** Bonds or notes issued under the provisions of this act are hereby made securities in which all public officers, agencies and public bodies of the State and its political subdivisions, all insurance companies, trust companies, investment companies, banks, savings banks, building and loan associations, credit unions, pension or retirement funds, other financial institutions engaged in business in the State, executors, administrators, trustees and other fiduciaries may properly and legally invest funds, including capital in their control or belonging to them. Such bonds or notes are hereby made securities which may properly and legally be deposited with and received by any officer or agency of the state or political subdivision of the State for any purpose for which the deposit of bonds, notes or obligations of the State or any political subdivision is now or may hereafter be authorized by law.

(h) **Faith and Credit.** The faith and credit and taxing power of the State are hereby pledged for the payment of the principal of and the interest on the bonds and notes herein authorized.

Sec. 6. Variable interest rates. In fixing the details of bonds or notes, the State Treasurer may provide that any of the bonds or notes (i) may be made payable from time to time on demand or tender for purchase by the owner thereof provided a Credit Facility (as defined in this section) supports such bonds or notes, unless the State Treasurer specifically determines that a Credit Facility is not required upon a finding and determination by the State Treasurer that the absence of a Credit Facility will not materially and adversely affect the financial position of the State and the marketing of the bonds or notes at a reasonable interest cost to the State; (ii) may be additionally supported by a Credit Facility; (iii) may be made subject to redemption prior to maturity with such variations as may be permitted in connection with a Par Formula (as defined in this section); (iv) may bear interest at a rate or rates that may vary for such period or periods of time, all as may be provided in the proceedings providing for the issuance of such bonds or notes, including, without limitation, such variations as may be permitted pursuant to a Par Formula; and (v) may be made the subject of a remarketing agreement whereby an attempt is made to remarket the bonds or notes to new purchasers prior to

their presentment for payment to the provider of the Credit Facility or to the State. As used in this section, the following terms shall have the following meanings:

"Credit Facility" means an agreement entered into by the State Treasurer on behalf of the State with a bank, savings and loan association or other banking institution, an insurance company, reinsurance company, surety company or other insurance institution, a corporation, investment banking firm or other investment institution, or any financial institution providing for prompt payment of all or any part of the principal (whether at maturity, presentment or tender for purchase, redemption or acceleration), redemption premium, if any, and interest on any bonds or notes payable on demand or tender by the owner, in consideration of the State agreeing to repay the provider of such Credit Facility in accordance with the terms and provisions of such agreement; the provider of any such Credit Facility may be located either within or without the United States.

"Par Formula" shall mean any provision or formula adopted by the State to provide for the adjustment, from time to time, of the interest rate or rates borne by any bonds or notes, including:

(a) a provision providing for such adjustment so that the purchase price of such bonds or notes in the open market would be as close to par as possible,

(b) a provision providing for such adjustment based upon a percentage or percentages of a prime rate or base rate, which percentage or percentages may vary or be applied for different periods of time, or

(c) such other provision as the State Treasurer may determine to be consistent with this act and will not materially and adversely affect the financial position of the State and the marketing of the bonds or notes at a reasonable interest cost to the State.

If the aggregate principal amount repayable by the State under a related Credit Facility is in excess of the aggregate principal amount of bonds or notes secured by such related Credit Facility, whether as a result of the inclusion in the Credit Facility of a provision for the payment of interest for a limited period of time or the payment of a redemption premium or for any other reason, then the amount of authorized but unissued bonds or notes during the term of such Credit Facility shall not be less than the amount of such excess, unless the payment of such excess is otherwise provided for by agreement of the State executed by the State Treasurer.

Sec. 7. Capital improvement bond fund of 1988. The proceeds of sale of the bonds and the notes herein authorized, including premium thereon, if any, except the proceeds of bonds or notes the issuance of which has been anticipated by notes and the proceeds of which are to be used to retire such notes, shall be placed by the State Treasurer in a special fund known as the "Capital Improvement Bond Fund of 1988" and shall be disbursed as herein provided.

Sec. 8. Interpretation of act. (a) The foregoing sections of this act shall be deemed to provide an additional and alternative method for the doing of the things authorized thereby and shall be regarded as supplemental and additional to powers conferred by other laws, and shall not be regarded as in derogation of any powers now existing.

(b) This act, being necessary for the health and welfare of the people of the State, shall be liberally construed to effect the purposes thereof.

(c) Insofar as the provisions of this act are inconsistent with the provisions of any general laws, or parts thereof, the provisions of this act shall be controlling.

(d) If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared to be severable.

Sec. 9. Repeal of obsolete authorization. (a) Section 3 of Chapter 1062 of the 1983 Session Laws is repealed.

(b) Chapter 946 of the 1985 Session Laws is repealed.

Sec. 10. Effective date. This act shall become effective on ratification.

In the General Assembly read three times and ratified this the 5th day of July, 1988.