

GENERAL ASSEMBLY OF NORTH CAROLINA  
1987 SESSION

CHAPTER 517  
SENATE BILL 555

AN ACT TO AMEND CHAPTER 159D OF THE GENERAL STATUTES  
PERTAINING TO INDUSTRIAL AND POLLUTION CONTROL FACILITIES  
POOL PROGRAM FINANCING ACT.

The General Assembly of North Carolina enacts:

Section 1. G.S. 159D-1 is amended by deleting the word "Federal" and inserting the word "Pool".

Sec. 2. G.S. 159D-2 is amended by adding a new subsection to read:

(c1) The General Assembly further finds that certain provisions of federal tax law, economies of scale and credit market conditions make it advantageous for counties in North Carolina to be authorized to create a single authority with the legal capacity to combine separate financings into one or more pools that may be offered for sale on more favorable terms than any single financing standing alone."

Sec. 3. G.S. 159D-2(d) is amended by striking the word "federal" appearing immediately after the word "with" and immediately before the word "programs" and inserting in lieu thereof the word "pool".

Sec. 4. G.S. 159D-3(6) is rewritten to read:

"(6) 'Pool program' shall mean a program of the authority whereby separate financings for obligors are combined into one or more pools for purposes of sale. The credit of such financings or the pool may be enhanced by participation in a federal program, by a guaranty such as a surety bond, insurance or a letter of credit, by additional collateral or by any other device, fund or guaranty by any person other than the authority, under which payment of bonds or the obligations of an obligor under a financing agreement shall be guaranteed, in whole or in part, by such person or persons."

Sec. 4.1 G.S. 159D-3(9) is rewritten to read:

"(9) 'Obligor' shall mean collectively the operator and any others (including, but not by way of limitation, any other person, collateral device or fund that shall be obligated to pay) who or which shall be obligated under a financing agreement or guaranty agreement or other contract or agreement to make payments to, or for the benefit of, the holders of bonds of the authority. Any requirement of an obligor may be satisfied by any one or more persons who are defined collectively by this Chapter as the obligor."

Sec. 5. G.S. 159D-4(a) is amended by rewriting the first paragraph to read:

"The governing bodies of two or more counties are hereby authorized to create by resolution a political subdivision and body corporate and politic of the State known as

'The North Carolina Industrial Facilities and Pollution Control Financing Authority', in order to effectuate in the most economical manner the acquisition, construction and financing of projects through pool programs."

Sec. 6. G.S. 159D-7 is amended as follows:

(1) Subdivision (1) a. in the second unnumbered paragraph is amended by striking the words and figure "twenty percent (20%)", appearing in line 5 and inserting in lieu thereof the words and figure "ten percent (10%)".

(2) by inserting after subdivision (2) in the second unnumbered paragraph a new subdivision to read:

"(2a) In the case of a hazardous waste facility or low-level radioactive waste facility which is used as a reduction, recovery or recycling facility, that such project will further the waste management goals of North Carolina and will not have an adverse effect upon public health or a significant adverse effect on the environment; and"

(3) the third unnumbered paragraph is amended by inserting a new sentence to begin at the end of the first sentence which ends on line 9 thereof which reads:

"In no case shall the Secretary of Commerce make the findings required by subdivision (2a) unless he shall have first received a certification from the Department of Human Resources that the proposed project is environmentally sound, will not have an adverse effect on public health and will further the waste management goals of North Carolina."

(d) the sixth and last paragraph is amended by adding a sentence at the end to read:

"Any certificate of approval with respect to a project which has become effective pursuant to G.S. 159C-7 shall be deemed to satisfy the requirements of this section to the extent that the findings made by the Secretary pursuant to G.S. 159C-7 are consistent with the findings required to be made by the Secretary pursuant hereto."

Sec. 7. G.S. 159D-11 is amended as follows:

(1) Subdivision (1) of the first unnumbered paragraph is repealed.

(2) Subdivision (2) of the first unnumbered paragraph is amended by inserting the words "and interest" immediately after the word "any," and immediately before the word "on" appearing in line 3 thereof.

(3) The third unnumbered paragraph is hereby amended by inserting the words and punctuation ", if in the nature of a lease agreement," in line #1 thereof immediately after the word "agreement" and immediately before the word "shall."

(4) Subdivision (4) of the fourth unnumbered paragraph is amended by inserting the words "or fore-closure" immediately after the word "sale" and immediately before the word "of".

(5) by inserting a new unnumbered paragraph between unnumbered paragraphs four and five to read:

"The authority's interest in a project under a financing agreement may be that of owner, lessor, lessee, conditional or installment vendor, mortgagor, mortgagee, secured party or otherwise, but the authority need not have any ownership or possessory interest in the project."

Sec. 8. G.S. 159D-19(a) is amended by inserting the words and figures "or under the provisions of Chapter 159C of the General Statutes," in line four thereof immediately after the word "Chapter" and immediately before the word "including".

Sec. 9. This act is effective upon ratification.

In the General Assembly read three times and ratified this the 30th day of June, 1987.