

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1991

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SENATE BILL 785

Short Title: Special Obligation Bonds.

(Public)

Sponsors: Senators Carpenter, Conder, Hartsell, Marvin; Allran, Blackmon, Forrester, and Speed.

Referred to: Local Government and Regional Affairs.

April 24, 1991

1 A BILL TO BE ENTITLED
2 AN ACT TO AUTHORIZE MUNICIPALITIES TO ISSUE BONDS AND NOTES
3 CONSTITUTING SPECIAL OBLIGATIONS SECURED SOLELY BY SOURCES
4 THAT ARE NOT DERIVED FROM THE EXERCISE OF THEIR TAXING
5 POWER TO PROVIDE FUNDS FOR CERTAIN MUNICIPAL
6 INFRASTRUCTURE NEEDS.

7 The General Assembly of North Carolina enacts:

8 Section 1. Chapter 159 of the General Statutes is amended by adding a new
9 Article to read:

10 **“ARTICLE 6A.**
11 **“SPECIAL OBLIGATION BONDS.**

12 **“§ 159-111.1. Short title.**

13 This Article may be cited as ‘The Local Government Special Obligation Bond Act’.

14 **“§ 159-112. Definitions.**

15 The following definitions apply in this Article:

16 (1) Municipality. A county, a city, a town, an incorporated village, a
17 sanitary district, a water and sewer authority, a special airport district,
18 or any joint agency created pursuant to Part 1 of Article 20 of Chapter
19 160A of the General Statutes. The term does not include any other
20 form of local government.

21 (2) Municipal purpose. One of the following purposes:

22 a. Providing jails and other confinement facilities.

- 1 b. Providing courthouses, including offices, meeting rooms,
2 courtrooms, court facilities, and detention facilities.
- 3 c. Providing sanitary sewer systems, including community
4 sewerage facilities for the collection, treatment, and disposal of
5 sewage, septic tank systems, and other on-site collection and
6 disposal facilities or systems.
- 7 d. Providing water systems, including facilities for the supply,
8 storage, treatment, and distribution of water.
- 9 (3) Special obligation bond. A bond issued by a municipality pursuant to
10 this Article. The term does not include a revenue bond issued pursuant
11 to Article 5 of this Chapter.
- 12 (4) Special obligation bond anticipation note. A bond anticipation note
13 issued by a municipality pursuant to this Article. The term does not
14 include a revenue bond anticipation note issued pursuant to Article 5
15 and Article 9 of this Chapter.

16 **"§ 159-113. Purpose.**

17 The purpose of this Article is to establish a uniform procedure for the financing by a
18 municipality of municipal purposes without pledging its faith and credit through the
19 issuance of special obligation bonds and special obligation bond anticipation notes that
20 are secured as to principal, interest, and any redemption premium solely from sources
21 that are not derived from the exercise of its taxing power.

22 **"§ 159-114. Powers.**

23 (a) In addition to other powers that it may now or hereafter have, each
24 municipality shall have the following powers, subject to the provisions of this Article
25 and of any bond order or trust agreement authorizing or securing special obligation
26 bonds:

- 27 (1) To exercise in connection with any municipal purpose for which it
28 could issue revenue bonds pursuant to Article 5 of this Chapter the
29 powers granted to it pursuant to G.S. 159-83, except that for the
30 purposes of this Article: (i) G.S. 159-81(3)m. shall be considered to
31 apply to all municipalities; (ii) additional security may be created as
32 provided in this Article notwithstanding the provisions of G.S. 159-
33 83(a)(5); and (iii) any rates, fees, rentals, tolls, and charges fixed and
34 charged by it pursuant to G.S. 159-83(a)(6) need not produce any
35 minimum amount of revenues.
- 36 (2) To borrow money to provide funds for any one or more municipal
37 purposes and to issue its special obligation bonds or special obligation
38 bond anticipation notes in evidence thereof as provided in this Article.
- 39 (3) To pledge for the payment of its special obligation bonds, special
40 obligation bond anticipation notes, and interest and any premium on
41 bonds and notes any revenue source that may be available for use by
42 the municipality for the municipal purpose or purposes to be financed
43 and, to the extent the generation of revenue is within the power of the
44 municipality, to enter into covenants to take action to generate the

1 revenue, but only to the extent that any use of a source to pay the
2 principal of or interest or premium on the bonds or notes or any
3 covenant to generate revenues will not constitute a pledge of the taxing
4 power of the municipality.

5 (4) To appropriate, apply, or expend for the following purposes the
6 proceeds of its special obligation bonds, special obligation bond
7 anticipation notes, and revenue sources that may be used under any
8 bond order or trust agreement authorizing or securing such bonds or
9 notes: (i) to pay interest on the bonds or notes and the principal or
10 redemption price of the bonds or notes when due; (ii) to meet reserves
11 and other requirements set forth in the bond order or trust agreement;
12 (iii) to provide funds for the municipal purpose authorized in the bond
13 order or trust agreement and to provide working capital for initial
14 maintenance and operation; and (iv) to pay and discharge special
15 obligation bonds, revenue bonds, general obligation bonds, and notes
16 issued in anticipation of these bonds.

17 (5) In connection with issuing its special obligation bonds or special
18 obligation bond anticipation notes pursuant to this Article, to purchase
19 real or personal property by installment contracts which create in the
20 property purchased a security interest to secure payment of the
21 purchase money and to secure the purchase of real property by
22 granting a deed of trust with respect to the property. A contract
23 entered into under this section is subject to the applicable provisions of
24 Article 8 of this Chapter. No deficiency judgment payable from
25 sources derived from the exercise of a municipality's taxing power
26 may be rendered against any municipality in any action for breach of a
27 contractual obligation authorized by this section and the taxing power
28 of the municipality will not be pledged to secure any moneys due to
29 the seller.

30 (b) The Commission shall approve any contract, agreement, lease, deed,
31 covenant, or other instrument or document evidencing an agreement or covenant
32 between bondholders or any public agency and a municipality issuing special obligation
33 bonds or special obligation bond anticipation notes with respect to any of the powers
34 conferred in this section.

35 **§ 159-115. Authorization of special obligation bonds and notes.**

36 Each municipality may issue its special obligation bonds and special obligation bond
37 anticipation notes in such principal amount as may be necessary to provide sufficient
38 funds for one or more municipal purposes, including engineering, inspection, legal, and
39 financial fees and costs; interest on the bonds or notes issued in anticipation of the
40 bonds during construction; if deemed advisable by the municipality, for a period not
41 exceeding two years after the estimated date of completion of construction,
42 establishment of debt service reserves; and all other expenditures of the municipality
43 incidental and necessary or convenient to the municipal purposes, including, except as

1 expressly modified by this Article, the costs set forth as the cost of an undertaking in the
2 last paragraph of G.S. 159-81(3).

3 Subject to agreements with the owners of its special obligation bonds, each
4 municipality may issue further special obligation bonds and may refund outstanding
5 special obligation bonds whether or not they have matured. Special obligation bonds
6 may be issued partly for the purpose of refunding outstanding special obligation bonds
7 and partly for any other purpose under this Article. Special obligation bonds issued to
8 refund outstanding special obligation bonds shall be issued under this Article and not
9 any other law.

10 Special obligation refunding bonds may be issued at any time before the final
11 maturity of the debt or obligation to be refunded. The proceeds from the sale of any
12 special obligation refunding bonds shall be applied only either (i) to the immediate
13 payment and retirement of the obligations being refunded or (ii) if not required for the
14 immediate payment of the obligations being refunded, a trust account to provide for the
15 payment and retirement of the obligations being refunded and to pay any expenses
16 incurred in connection with the refunding, but provision may be made for the pledging
17 and disposition of any amounts in excess of the amounts required for these purposes,
18 including provision for the pledging of the excess to the payment of the principal of and
19 interest on any issue or series of refunding bonds issued pursuant to G.S. 159-78.
20 Money in such a trust account may be invested (i) in direct obligations of the United
21 States government, (ii) in obligations the principal of and interest on which are
22 guaranteed by the United States government, (iii) to the extent then permitted by law, in
23 obligations of any agency or instrumentality of the United States government, or (iv) in
24 certificates of deposit issued by a bank or trust company located in this State if the
25 certificates are secured by a pledge of any of the obligations described in (i), (ii), or (iii)
26 having an aggregate market value, exclusive of accrued interest, equal at least to the
27 principal amount of the certificates secured. This section does not limit the duration of
28 any deposit in trust for the retirement of obligations being refunded but which have not
29 matured and which are not presently redeemable or, if presently redeemable, have not
30 been called for redemption.

31 The principal amount of refunding bonds issued pursuant to this section, together
32 with the principal amount of refunding bonds, if any, issued under G.S. 159-78 in
33 conjunction with refunding bonds issued pursuant to this section, shall not exceed the
34 amount set forth in G. S. 159-78.

35 **"§ 159-116. Application to Commission for approval of special obligation bond**
36 **issue; preliminary conference; acceptance of application.**

37 (a) A municipality may not issue special obligation bonds under this Article
38 unless the issue is approved by the Commission. The governing board of the issuing
39 municipality, or its duly authorized agent, shall file an application for Commission
40 approval of the issue with the secretary of the Commission. The application shall state
41 such facts and have attached to it such documents concerning the proposed special
42 obligation bonds, the revenue sources that may be pledged for the payment of the bonds,
43 and the financial condition of the issuing municipality as the secretary may require. The
44 Commission may prescribe the form of the application.

1 (b) Before accepting the application, the secretary may require the governing
2 board or its representatives to attend a preliminary conference at which time the
3 secretary and the secretary's deputies may informally discuss the proposed issue and the
4 timing of the steps taken in issuing the special obligation bonds.

5 (c) After an application in proper form and order has been filed, and after a
6 preliminary conference if one is required, the secretary shall notify the municipality in
7 writing that the application has been filed and accepted for submission to the
8 Commission. The secretary's statement shall be conclusive evidence that the
9 municipality has complied with this section.

10 **"§ 159-117. Approval of application by Commission.**

11 (a) In determining whether a proposed special obligation bond issue shall be
12 approved, the Commission may consider:

- 13 (1) Whether the municipal purpose to be financed from the proceeds of the
14 special obligation bond issue is necessary or expedient.
- 15 (2) Whether the proposed municipal purpose is feasible.
- 16 (3) The municipality's debt management procedures and policies.
- 17 (4) Whether the municipality is in default in any of its debt service
18 obligations.
- 19 (5) Whether the revenue sources to be pledged for the payment of the
20 proposed special obligation bonds will be sufficient to service the
21 bonds.
- 22 (6) The ability of the Commission to market the proposed special
23 obligation bonds at reasonable rates of interest.

24 The Commission may inquire into and give consideration to any other matters that it
25 believes have a bearing on whether the issue should be approved.

26 (b) The Commission shall approve the application if, upon the information and
27 evidence it receives, it determines:

- 28 (1) That the proposed special obligation bond issue is necessary or
29 expedient.
- 30 (2) That the amount proposed is adequate and not excessive for the
31 proposed municipal purpose of the issue.
- 32 (3) That the proposed municipal purpose is feasible.
- 33 (4) That the municipality's debt management procedures and policies are
34 good or that reasonable assurances have been given that its debt will
35 henceforth be managed in strict compliance with law.
- 36 (5) That the proposed special obligation bonds can be marketed at a
37 reasonable interest cost to the municipality.

38 **"§ 159-118. Order approving or denying the application.**

39 (a) After considering an application the Commission shall enter its order either
40 approving or denying the application. An order approving an issue shall not be
41 regarded as an approval of the legality of the special obligation bonds in any respect.

42 (b) If the Commission enters an order denying the application, the proceedings
43 under this Article are at an end.

44 **"§ 159-118.1. Adoption of special obligation bond order.**

1 (a) At any time after the Commission approves an application for the issuance of
2 special obligation bonds and following the hearing required by subsection (c), the
3 governing board of the municipality may adopt a special obligation bond order pursuant
4 to this Article. The specific sources of payment pledged by a municipality shall be
5 specifically identified in the proceedings of the governing board authorizing the
6 municipality to issue the special obligation bonds.

7 (b) Notwithstanding any other provision of law, a special obligation bond order
8 may be introduced at any regular or special meeting of the governing board of a
9 municipality and adopted by a simple majority of those present and voting if a quorum
10 is present, and need not be published or subjected to any procedural requirements
11 governing the adoption of ordinances or resolutions by the governing board other than
12 the procedures set out in this Article. Special obligation bond orders are not subject to
13 the provisions of any city charter or law concerning initiative or referendum.

14 (c) When the bond order is introduced, the board shall fix the time and place for
15 a public hearing on the order. On the date fixed for the public hearing, which shall not
16 be earlier than six days after the introduction of the special obligation bond order, the
17 board shall hear anyone who wishes to be heard on the question of the validity of the
18 order or the advisability of issuing the bonds. The hearing may be adjourned from time
19 to time.

20 **"§ 159-118.2. Special covenants.**

21 A special obligation bond order or a trust agreement authorizing or securing special
22 obligation bonds and special obligation bond anticipation notes may contain covenants
23 as to:

- 24 (1) The use of all or any part of the revenue source or sources to be
25 pledged for the payment of the special obligation bonds and special
26 obligation bond anticipation notes.
- 27 (2) Rates, fees, rentals, tolls, or other charges to be established,
28 maintained, and collected and the use and disposal of revenues, gifts,
29 grants, and funds received or to be received.
- 30 (3) The setting aside of debt service reserves and the regulation and
31 disposition of the reserves.
- 32 (4) The custody, collection, securing, investment, and payment of any
33 moneys held for the payment of special obligation bonds and special
34 obligation bond anticipation notes.
- 35 (5) Limitations or restrictions on the purposes to which the proceeds of
36 sale of special obligation bonds and special obligation bond
37 anticipation notes then or thereafter to be issued may be applied.
- 38 (6) Limitations or restrictions on the issuance of additional special
39 obligation bonds, special obligation bond anticipation notes, or other
40 obligations and the terms upon which additional special obligation
41 bonds, special obligation bond anticipation notes, or other obligations
42 may be issued and secured or if outstanding special obligation bonds,
43 special obligation bond anticipation notes, or other bonds or notes may
44 be refunded.

- 1 (7) The procedure, if any, by which the terms of any contract with owners
2 of special obligation bonds may be amended or abrogated, the
3 percentage of special obligation bonds the owners of which must
4 consent to the amendment or abrogation, and the manner in which this
5 consent may be given.
- 6 (8) Events of default and the rights and liabilities arising upon default, the
7 terms and conditions upon which special obligation bonds and special
8 obligation bond anticipation notes shall become or may be declared
9 due before maturity, and the terms and conditions upon which such a
10 declaration and its consequences may be waived.
- 11 (9) The preparation and maintenance of a budget with respect to the
12 revenues and expenses of the municipality, including the sources of
13 revenues that may be pledged for the payment of the special obligation
14 bonds and special obligation bond anticipation notes.
- 15 (10) The retention or employment of consulting engineers, independent
16 auditors, and other technical consultants in connection with a project
17 constituting a municipal purpose.
- 18 (11) Limitations on or the prohibition of free service by a project
19 constituting a municipal purpose and a source of revenues that may be
20 pledged for the payment of special obligation bonds and special
21 obligation bond anticipation notes to any person, firm, or corporation,
22 public or private.
- 23 (12) The acquisition and disposal of property for a project constituting a
24 municipal bond purpose.
- 25 (13) Provisions for insurance and for accounting reports and the inspection
26 and audit of the reports.
- 27 (14) The continuing operation and maintenance of a project constituting a
28 municipal purpose or the utility or enterprise of which it is to become a
29 part.

30 **§ 159-118.3. Limitations on details of special obligation bonds; additional**
31 **provisions.**

32 (a) In fixing the details of special obligation bonds or special obligation bond
33 anticipation notes, the issuing municipality is subject to the following restrictions and
34 directions:

- 35 (1) The maturity dates may not exceed the maximum maturity periods
36 prescribed by the Commission for general obligation bonds pursuant to
37 G.S. 159-122.
- 38 (2) Any bond or note may be made subject to redemption prior to
39 maturity, including redemption on demand of the owner, with or
40 without premium, on such notice and at such time or times and with
41 such redemption provisions as may be stated. When the bond or note
42 has been validly called for redemption and provision has made for the
43 payment of (i) the principal of the bond or note, (ii) any redemption

1 premium, and (iii) the interest on the bond or note accrued to the date
2 of redemption, then interest on the bond or note shall cease.

3 (3) The bonds or notes may bear interest at such rate or rates, payable
4 semiannually or otherwise, may be in such denominations, and may be
5 payable in such kind of money and in such place or places within or
6 without this State, as the issuing municipality may determine.

7 (4) No agreement or covenant shall contain a nonsubstitution clause that
8 restricts the right of a municipality to replace or provide a substitute
9 for any project financed pursuant to this Article.

10 (b) In addition to the foregoing provisions of this section, in fixing the details of
11 special obligation bonds and special obligation bond anticipation notes, the issuing
12 municipality may provide that the bonds or notes:

13 (1) May be made payable from time to time on demand or tender for
14 purchase by the owner if a Credit Facility supports the bonds or notes,
15 unless the Commission specifically determines that the absence of a
16 Credit Facility will not materially and adversely affect the financial
17 position of the municipality and the marketing of the bonds and notes
18 at a reasonable interest cost to the municipality.

19 (2) May be additionally supported by a Credit Facility.

20 (3) May be made subject to redemption prior to maturity, with or without
21 premium, on such notice, at such time or times, at such price or prices
22 and with such other redemption provisions as may be stated in the
23 bond order or trust agreement authorizing or securing the bonds or
24 notes or with such variations as may be permitted in connection with a
25 Par Formula provided in the bond order or trust agreement.

26 (4) May bear interest, notwithstanding the provisions of G.S. 159-125(a),
27 at a rate or rates that may vary as permitted pursuant to a Par Formula
28 and for such period or periods of time, all as may be provided in the
29 bond order or trust agreement.

30 (5) May be made subject of a remarketing agreement by which an attempt
31 is made to remarket the bonds or notes to new purchasers prior to their
32 presentment for payment to the provider of the Credit Facility or to the
33 issuing municipality.

34 No Credit Facility, repayment agreement, Par Formula, or remarketing agreement
35 shall become effective without the approval of the Commission.

36 (c) The following definitions apply in subsection (b) of this section:

37 (1) Credit Facility. An agreement entered into by an issuing municipality
38 with a bank, a savings and loan association, another banking
39 institution, an insurance company, a reinsurance company, a surety
40 company, another insurance institution, a corporation, an investment
41 banking firm, another investment institution, or any financial
42 institution providing for prompt payment of all or any part of the
43 principal (whether at maturity, presentment or tender for purchase,
44 redemption, or acceleration), redemption premium, if any, and interest

1 on any such bonds or notes payable on demand or tender by the owner
2 issued in accordance with this subsection, in consideration of the
3 issuing municipality agreeing to repay the provider of the Credit
4 Facility in accordance with the terms and provisions of the repayment
5 agreement, provided, that any such repayment agreement shall provide
6 that the obligation of the issuing municipality shall have only such
7 sources of payment as are permitted for the payment of bonds or notes
8 issued under this Article. A bank may include a foreign bank or
9 branch or agency of a foreign bank the obligations of which bear the
10 highest rating of at least one nationally-recognized rating service and
11 do not bear a rating below the highest rating of any nationally-
12 recognized rating service which rates such particular obligations.

13 (2) Par Formula. A provision or formula adopted by the issuing
14 municipality to provide for the adjustment, from time to time, of the
15 interest rate or rates borne by the bonds or notes including:

- 16 a. A provision providing for adjustment so that the purchase price
17 of the bonds or notes in the open market would be as close to
18 par as possible;
19 b. A provision providing for adjustment based upon percentages
20 of a prime rate or base rate, which percentages may vary or be
21 applied for different periods of time; or
22 c. Any other provisions that the municipality may determine are
23 consistent with this Article and do not materially and adversely
24 affect the financial position of the municipality and the
25 marketing of the bonds or notes at a reasonable interest cost to
26 the municipality.

27 (d) No bond order shall be adopted if the issuance of the bonds under the order
28 causes the net debt of the municipality to exceed eight percent (8%) of the appraised
29 value of property subject to taxation by the issuing municipality. Further, special
30 obligation bonds and special obligation bond anticipation notes issued pursuant to this
31 Article shall be included in the calculation of gross debt under G.S. 159-55 (a)(i).

32 (e) No bond order shall be adopted if the municipal purpose for which the special
33 obligation bonds or special obligation bond anticipation notes are to be issued is one for
34 which a bond referendum has been held, pursuant to G.S. 159-61, within four years
35 prior to the date of the filing of the application required by G.S. 159-116 and the bond
36 referendum failed to receive a majority of those voting thereon. Provided, this
37 subsection does not apply if the special obligation bonds or special obligation bond
38 anticipation notes are to be issued for a municipal purpose for which a municipality is
39 required to spend funds pursuant to court order.

40 (f) No bond order shall be adopted if the issuance of the bonds or bond
41 anticipation notes shall cause the total of the municipality's debt under this Article to
42 exceed twenty-five percent (25%) of the municipality's net debt as calculated under G.S.
43 159-55. Provided, this subsection shall not apply if the special obligation bonds or

1 special obligation bond anticipation notes are to be issued for a municipal purpose for
2 which a municipality is required to spend funds pursuant to court order.

3 **"§ 159-118.4. Lien of special obligation bonds and notes.**

4 (a) All special obligation bonds and special obligation bond anticipation notes
5 issued under this Article shall be equally and ratably secured by a pledge and a lien
6 upon the sources of revenues that may be pledged for their payment as provided in the
7 bond order or trust agreement authorizing or securing the bonds or notes, without
8 priority by reason of number, or of dates of bonds or notes, execution, or delivery, in
9 accordance with the provisions of this Article and of the bond order or trust agreement;
10 except that a municipality may provide in the bond order or trust agreement that special
11 obligation bonds or special obligation bond anticipation notes issued pursuant thereto
12 shall to the extent and in the manner prescribed in the bond order or trust agreement be
13 subordinated and junior in standing, with respect to the payment of principal, interest,
14 and any premium and the security therefor, to any other special obligation bonds or
15 special obligation bond anticipation notes.

16 (b) The pledge of a municipality with respect to the sources of payment identified
17 in a bond order or trust agreement pursuant to this Article shall be valid and binding
18 upon the issuance of any special obligation bonds or special obligation bond
19 anticipation notes under the bond order or trust agreement. The sources of payment so
20 pledged and then held or thereafter received by a municipality or any fiduciary shall
21 immediately be subject to the lien of the pledge without any physical delivery or further
22 act, and the lien shall be valid and binding as against all parties having claims of any
23 kind in tort, contract, or otherwise against the municipality without regard to whether
24 the parties have notice of the lien. The bond order or trust agreement or any other
25 document or action by which the pledge is created need not be filed or recorded in any
26 manner other than as provided in this Article.

27 **"§ 159-118.5. Status of special obligation bonds under Uniform Commercial Code.**

28 Whether or not the special obligation bonds are investment securities under Article 8
29 of Chapter 25 of the General Statutes, all special obligation bonds represented by
30 instruments issued under this Article shall be treated as investment securities within the
31 meaning of and for all the purposes of Article 8 of Chapter 25 of the General Statutes,
32 subject only to the provisions of the bonds pertaining to registration.

33 **"§ 159-118.6. Limited liability.**

34 Special obligation bonds and special obligation bond anticipation notes shall be
35 special obligations of the municipality issuing them. The principal of and interest and
36 any premium on special obligation bonds and special obligation bond anticipation notes
37 shall be secured solely by any sources of payment pledged in the bond order or trust
38 agreement under which they are authorized or secured, unless the use of the sources will
39 constitute a pledge of the faith and credit of the municipality, or a legal or equitable
40 pledge, charge, lien, or encumbrance upon any of its property, except as permitted by
41 G.S. 159-114(a)(5), other than the sources or upon any other income, receipts or,
42 revenues except to the extent that special obligation bond anticipation notes are payable
43 from the proceeds of the special obligation bonds in anticipation of which they are
44 issued. Neither the faith and credit nor the taxing power of the municipality are pledged

1 for the payment of the principal of or interest or any premium on any special obligation
2 bonds or special obligation bond anticipation notes, and no owner of special obligation
3 bonds or special obligation bond anticipation notes has the right to compel the exercise
4 of the taxing power by the municipality or the forfeiture of any of its property, except as
5 permitted by G.S. 159-114(a)(5), in connection with any default on the bonds or notes.
6 Every special obligation bond and special obligation bond anticipation note shall recite
7 in substance that the principal of and interest and any premium on the bond or note are
8 secured solely by the sources of payment specified in the bond order or trust agreement
9 under which it is authorized or secured, provided that any such use of such sources will
10 not constitute a pledge of the faith and credit of the municipality, and that the
11 municipality is not obligated to pay the principal or interest or any premium except from
12 the specified sources.

13 **"§ 159-118.7. Bonds and notes eligible for investment.**

14 Bonds and notes issued under this Article are securities in which all public offices,
15 agencies, and public bodies of the State and its political subdivisions, all insurance
16 companies, trust companies, investment companies, banks, savings banks, building and
17 loan associations, credit unions, pension or retirement funds, other financial institutions
18 engaged in business in the State, executors, administrators, trustees, and other
19 fiduciaries may properly and legally invest funds, including capital in their control or
20 belonging to them. Such bonds or notes are securities which may properly and legally
21 be deposited with and received by any officer or agency of the State or political
22 subdivision of the State for any purpose for which the deposit of bonds, notes, or
23 obligations of the State or any political subdivision is now or may hereafter be
24 authorized by law.

25 **"§ 159-118.8. Tax exemption.**

26 The bonds and notes authorized by this Article, their coupons, and their transfer are
27 exempt from all State, county, and municipal taxation or assessment, except inheritance
28 and gift taxes. The interest on the bonds and notes is not subject to income tax. The
29 bonds, notes, and coupons are not taxable when they constitute part of the surplus of
30 any bank, trust company, or other corporation."

31 Sec. 2. G.S. 159-78 reads as rewritten:

32 **"§ 159-78. Special obligation refunding bonds.**

33 In conjunction with the issuance of refunding bonds pursuant to ~~G.S. 159-72 or G.S.~~
34 ~~159-84~~ G.S. 159-72, 159-84, or 159-115 a unit of local government may issue a series of
35 refunding bonds which shall be payable from the excess of the amount required by a
36 trust fund established pursuant to ~~G.S. 159-72 or G.S. 159-84~~ G.S. 159-72, 159-84, or
37 159-115 to provide for the payment and retirement of the obligations being retired and
38 the amount required to pay any expenses incurred in connection with such refunding to
39 the extent such expenses are payable from said trust fund.

40 Such refunding bonds shall be special obligations of the municipality issuing them.
41 The principal of and interest on such refunding bonds shall not be payable from the
42 general funds of the municipality, nor shall they constitute a legal or equitable pledge,
43 charge, lien, or encumbrance upon any of its property or upon any of its income,
44 receipts, or revenues, except the trust fund established pursuant to ~~G.S. 159-72 or G.S.~~

1 ~~159-84~~ G.S. 159-72, 159-84, or 159-115 from which such refunding bonds are payable.
2 Neither the credit nor the taxing power of the municipality is pledged for the payment of
3 the principal or interest of such refunding bonds, and no holder of such refunding bonds
4 has the right to compel the exercise of the taxing power of the municipality or the
5 forfeiture of any of its property in connection with any default thereon. Every such
6 refunding bond shall recite in substance that the principal of and interest on the bond is
7 payable solely from the trust fund established for its payment and that the municipality
8 is not obligated to pay the principal or interest except from such trust fund.

9 Any refunding bonds issued under this section shall be issued in compliance with the
10 procedure set forth in Article 5 or Article 6A of this Chapter.

11 The principal amount of any issue of refunding bonds issued pursuant to ~~G.S. 159-72~~
12 ~~or G.S. 159-84~~, G.S. 159-72, 159-84, or 159-115 together with the principal amount of
13 refunding bonds, if any, issued pursuant to this section in conjunction with a series of
14 bonds issued under ~~G.S. 159-72 or G.S. 159-84~~, G.S. 159-72, 159-84, or 159-115 shall not
15 exceed the sum of the following: (i) the principal amount of the obligations being
16 refinanced, (ii) applicable redemption premiums thereon, (iii) unpaid interest on such
17 obligations to the date of delivery or exchange of the refunding bonds, (iv) in the event
18 the proceeds from the sale of the refunding bonds are to be deposited in trust as
19 provided by ~~G.S. 159-72 or G.S. 159-84~~, G.S. 159-72, 159-84, or 159-115 interest to
20 accrue on such obligations being refinanced from the date of delivery of the refunding
21 bonds to the first or any subsequent available redemption date or dates selected, in its
22 discretion, by the governing body of the unit of local government, or to the date or dates
23 of maturity, whichever shall be determined by the governing body of the unit of local
24 government to be most advantageous or necessary and (v) expenses, including bond
25 discount, deemed by the governing body to be necessary for the issuance of the
26 refunding bonds."

27 Sec. 3. G.S. 159-123(b)(3) reads as rewritten:

28 "(3) ~~Revenue bonds, including any refunding bonds issued pursuant to G.S.~~
29 ~~159-84, bonds and special obligation bonds issued pursuant to Chapter~~
30 ~~159I of the General Statutes.~~ bonds, including any refunding bonds
31 issued pursuant to G.S. 159-84 and G.S. 159-115."

32 Sec. 4. G.S. 159-148 reads as rewritten:

33 "**§ 159-148. Contracts subject to Article; exceptions.**

34 (a) Except as provided in subsection (b) of this section, this Article applies to any
35 contract, agreement, memorandum of understanding, and any other transaction having
36 the force and effect of a contract (other than agreements made in connection with the
37 issuance of revenue bonds, special obligation ~~bonds~~ bonds, ~~issued pursuant to Chapter 159I~~
38 ~~of the General Statutes~~, or of general obligation bonds additionally secured by a pledge of
39 revenues) made or entered into by a unit of local government (as defined by G.S. 159-
40 7(b) or, in the case of a special obligation ~~bond~~ bond issued under Chapter 159I of the
41 General Statutes, as defined in that Chapter), ~~as defined in Chapter 159I of the General~~
42 ~~Statutes~~), relating to the lease, acquisition, or construction of capital assets, which
43 contract

- 1 (1) Extends for five or more years from the date of the contract, including
2 periods that may be added to the original term through the exercise of
3 options to renew or extend, and
- 4 (2) Obligates the unit to pay sums of money to another, without regard to
5 whether the payee is a party to the contract, and
- 6 (3) Obligates the unit over the full term of the contract, including periods
7 that may be added to the original term through the exercise of options
8 to renew or extend, to the extent of five hundred thousand dollars
9 (\$500,000) or a sum equal to one tenth of one percent (1/10 of 1%) of
10 the assessed value of property subject to taxation by the contracting
11 unit, whichever is less, and
- 12 (4) Obligates the unit, expressly or by implication, to exercise its power to
13 levy taxes either to make payments falling due under the contract, or to
14 pay any judgment entered against the unit as a result of the unit's
15 breach of the contract.

16 Contingent obligation shall be included in calculating the value of the contract.
17 Several contracts that are all related to the same undertaking shall be deemed a single
18 contract for the purposes of this Article. When several contracts are considered as a
19 single contract, the term shall be that of the contract having the longest term, and the
20 sums to fall due shall be the total of all sums to fall due under all single contracts in the
21 group.

22 (a1) Except as provided in subsection (b) of this section, this Article applies to any
23 contract, agreement, memorandum of understanding, and any other transaction having
24 the force and effect of a contract (other than agreements made in connection with the
25 issuance of revenue bonds, special obligation bonds, or general obligation bonds
26 additionally secured by a pledge of revenues) made or entered into by a unit of local
27 government (as defined by G.S. 159-7(b) or, in the case of a special obligation bond
28 issued under Chapter 159I of the General Statutes, as defined in that Chapter), relating
29 to the lease, acquisition, or construction of capital assets if the contract creates total
30 obligations on the part of the contracting unit under this Article in an amount exceeding
31 twenty-five percent (25%) of the contracting unit's net debt as calculated pursuant to
32 G.S. 159-55.

33 (b) This Article shall not apply to:

- 34 (1) Contracts between a unit of local government and the State of North
35 Carolina or the United States of America (or any agency of either)
36 entered into as a condition to the making of grants or loans to the unit
37 of local government.
- 38 (2) Contracts for the purchase, lease, or lease with option to purchase of
39 motor vehicles or voting machines.
- 40 (3) Loan agreements entered into by a unit of local government pursuant
41 to the North Carolina Solid Waste Management Loan Program,
42 Chapter 159I of the General Statutes."

43 Sec. 5. Interpretation of act. (a) The foregoing sections of this act shall be
44 deemed to provide an additional and alternative method for the doing of the things

1 authorized by the act, shall be regarded as supplemental and additional to powers
2 conferred by other laws, and shall not be regarded as in derogation of any powers now
3 existing.

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

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

8 (d) Insofar as the provisions of this act are inconsistent with the provisions of any
9 local, special, or private laws, the provisions of those laws are repealed to the extent of
10 the conflict.

11 (e) If any provisions of this act or its application to any person or
12 circumstance is held invalid, the invalidity does not affect other provisions or
13 applications of the act that can be given effect without the invalid provisions or
14 application, and to this end the provisions of this act are severable.

15 Sec. 6. This act is effective upon ratification.