

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2021

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SENATE BILL 265
Finance Committee Substitute Adopted 5/11/21
House Committee Substitute Favorable 6/14/22

Short Title: Bond Info Transparency/LGC Toolkit II.

(Public)

Sponsors:

Referred to:

March 15, 2021

1 A BILL TO BE ENTITLED
2 AN ACT TO INCREASE THE TRANSPARENCY OF BOND REFERENDA BY REQUIRING
3 ADDITIONAL DISCLOSURES BY UNITS OF LOCAL GOVERNMENT AND TO
4 MAKE CHANGES RECOMMENDED BY THE LOCAL GOVERNMENT COMMISSION
5 TO STRENGTHEN THE SYSTEM FOR MONITORING THE FINANCIAL
6 OPERATIONS OF LOCAL UNITS AND OVERSIGHT OF FISCALLY TROUBLED
7 LOCAL UNITS, AS DIRECTED BY THE CURRENT OPERATIONS
8 APPROPRIATIONS ACT OF 2021.

9 The General Assembly of North Carolina enacts:

10 **SECTION 1.** G.S. 159-52(b) reads as rewritten:

11 "(b) The Commission shall approve the application if, upon the information and evidence
12 it receives, it finds and determines:

- 13 (1) That the proposed bond issue is necessary or expedient.
14 (2) That the amount proposed is adequate and not excessive for the proposed
15 purpose of the issue.
16 (3) That the unit's debt management procedures and policies are good, or that
17 reasonable assurances have been given that its debt will henceforth be
18 managed in strict compliance with law.
19 (4) That the increase in taxes, if any, necessary to service the proposed debt will
20 not be excessive.
21 (5) That the proposed bonds can be marketed at reasonable rates of interest.
22 (6) That the assumptions used by the finance officer of the unit in preparing the
23 statement of estimated interest filed with the clerk pursuant to
24 G.S. 159-55.1(a) are reasonable.

25 If the Commission tentatively decides to deny the application because it is of the opinion that
26 any one or more of these conclusions cannot be supported from the information presented to it,
27 it shall so notify the unit filing the application. If the unit so requests, the Commission shall hold
28 a public hearing on the application at which time any interested persons shall be heard. The
29 Commission may appoint a hearing officer to conduct the hearing, and to present a summary of
30 the testimony and his recommendations for the Commission's consideration."

31 **SECTION 2.(a)** G.S. 159-55(d) is repealed.

32 **SECTION 2.(b)** The section heading of G.S. 159-55 reads as rewritten:

33 "**§ 159-55. Sworn statement of debt; debt limitation; statement of estimated interest on the**
34 **bonds limitation.**"



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1 SECTION 2.(c) Part 2 of Article 4 of Chapter 159 of the General Statutes is amended
2 by adding a new section to read:

3 **"§ 159-55.1. Statement of disclosures necessary for bond authorization.**

4 (a) After the bond order has been introduced and before the public hearing on it, the
5 finance officer shall file with the clerk of the board a statement of disclosure stating the following:

6 (1) Interest. – An estimate of the total amount of interest that will be paid on the
7 bonds over the expected term of the bonds, if issued, and a summary of the
8 assumptions upon which the estimate is based. The Commission must approve
9 the assumptions upon which the estimate is based as provided in
10 G.S. 159-52(b).

11 (2) Property taxes. – An estimate of the increase in property tax rate, if any,
12 necessary to service the proposed debt. If no increase in property tax rate is
13 estimated to be needed, a brief statement to the effect that the existing
14 projected revenues are expected to be sufficient to pay the principal and
15 interest of the bonds. The estimated increase in property tax rate shall be stated
16 as the rate of increase per one hundred dollars (\$100.00) of assessed valuation.

17 (3) Two-thirds bonds. – The amount of two-thirds bonds capacity the unit has
18 available for the current fiscal year, if any.

19 (b) The statement of disclosure shall include a statement to the effect that the information
20 contained in it is preliminary and is for general informational purposes only, that there is no
21 assurance that the assumptions upon which the disclosures are based will occur, that the
22 occurrence of certain of the assumptions is beyond the control of the unit, and that differences
23 between the actual circumstances at the time the bonds are issued from the assumptions included
24 in the disclosure could result in significant differences between the disclosures made and the
25 actual occurrences. The statement may include other qualifications as the finance officer deems
26 appropriate. The validity of the bonds authorized by the order is not subject to challenge on the
27 grounds that the actual occurrences when issued are different than the disclosures set forth in the
28 statement.

29 (c) The statement of disclosure shall be filed with the Commission, posted online, and
30 maintained by the clerk of the board."

31 SECTION 3. G.S. 159-56 reads as rewritten:

32 **"§ 159-56. Publication of bond order as introduced.**

33 After the introduction of the bond order, the clerk shall publish it once with the following
34 statement appended:

35 "The foregoing order has been introduced and a sworn statement of debt has been filed under
36 the Local Government Bond Act showing the appraised value of the [issuing unit] to be \$ _____
37 and the net debt thereof, including the proposed bonds, to be \$ _____. The finance officer of
38 the [issuing unit] has filed a statement estimating that the total amount of interest that will be
39 paid on the bonds over the expected term of the bonds, if issued, is \$ _____. ~~The estimate is~~
40 ~~preliminary, is for general informational purposes only, and may differ from the actual interest~~
41 ~~paid on the bonds.~~ A tax will [may] is authorized to be levied to pay the principal of and interest
42 on the bonds if they are issued. The finance officer has filed a statement estimating that [a
43 property tax increase of \$ _____ per \$100.00 of assessed valuation] [no property tax increase]
44 will be required to provide sufficient funds to pay the principal and interest on the proposed
45 bonds. These estimates are preliminary, are for general informational purposes only, and may
46 differ from the actual interest paid on the bonds or the actual property tax increases required to
47 provide sufficient funds to pay the principal and interest on the bonds. Anyone who wishes to be
48 heard on the questions of the validity of the bond order and the advisability of issuing the bonds
49 may appear at a public hearing or an adjournment thereof to be held at _____.

Clerk"

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2 The publication may include a summary of the assumptions upon which the ~~estimate~~
3 ~~estimates~~ of the total amount of interest that will be paid on the bonds over the expected term of
4 the ~~bonds~~, ~~bonds~~ if issued, ~~is~~ or the amount of any property tax increase required to provide funds
5 to pay principal and interest on the bonds if issued, ~~are~~ based, and may further state that there is
6 no assurance that the circumstances included in the assumptions will occur, that the occurrence
7 of certain of the assumptions is beyond the control of the issuing unit, and that differences
8 between the actual circumstances at the time the bonds are issued from the assumptions included
9 in the ~~estimate~~ ~~estimates~~ could result in significant differences between the estimated interest and
10 the actual interest on the ~~bonds~~. ~~bonds~~ or the actual property tax increases required to provide
11 sufficient funds to pay the principal and interest on the bonds. The statement may include
12 additional qualifications as the unit deems appropriate. The validity of bonds authorized to be
13 issued pursuant to this act is not subject to challenge on the grounds that the actual interest cost
14 of the bonds when ~~issued~~ ~~issued~~, or the actual property tax increases required to provide sufficient
15 funds to pay the principal and interest on the bonds when issued, is different than the amount set
16 forth in the ~~estimate~~ ~~estimates~~ referenced in the publication of the bond order as introduced."

17 **SECTION 4.** G.S. 159-58 reads as rewritten:

18 **"§ 159-58. Publication of bond order as adopted.**

19 After adoption, the clerk shall publish the bond order once, with the following statement
20 appended:

21 "The foregoing order was adopted on the _____ day of _____, _____, and is hereby
22 published this _____ day of _____, _____. Any action or proceeding questioning the validity
23 of the order must be begun within 30 days after the date of publication of this notice. The finance
24 officer of the [issuing unit] has filed a statement estimating that the total amount of interest that
25 will be paid on the bonds over the expected term of the bonds, if issued, is \$ _____. ~~The estimate~~
26 ~~is preliminary, is~~ A tax is authorized to be levied to pay the principal and interest on the bonds if
27 they are issued. The finance officer has filed a statement estimating that [a property tax increase
28 of \$ _____ per \$100.00 of assessed valuation] [no property tax increase] will be required to
29 provide sufficient funds to pay the principal and interest on the proposed bonds. These estimates
30 are preliminary, are for general informational purposes only, and may differ from the actual
31 interest paid on the ~~bonds~~. ~~bonds~~ or the actual property tax increases required to provide sufficient
32 funds to pay the principal and interest on the bonds.

Clerk"

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36 The publication may include a summary of the assumptions upon which the ~~estimate~~
37 ~~estimates~~ of the total amount of interest that will be paid on the bonds over the expected term of
38 the ~~bonds~~, ~~bonds~~ if issued, ~~is~~ or the amount of any property tax increase required to provide
39 sufficient funds to pay the principal and interest on the bonds if issued, ~~are~~ based, and may further
40 state that there is no assurance that the circumstances included in the assumptions will occur, that
41 the occurrence of certain of the assumptions is beyond the control of the issuing unit, and that
42 differences between the actual circumstances at the time the bonds are issued from the
43 assumptions included in the ~~estimate~~ ~~estimates~~ could result in significant differences between the
44 estimated interest and the actual interest on the ~~bonds~~. ~~bonds~~ or the actual property tax increases
45 required to provide sufficient funds to pay the principal and interest on the bonds. The statement
46 may include such additional qualifications as the unit deems appropriate. The validity of bonds
47 authorized to be issued pursuant to this act is not subject to challenge on the grounds that the
48 actual interest cost of the bonds when ~~issued~~ ~~issued~~, or the actual property tax increases required
49 to provide sufficient funds to pay the principal and interest on the bonds when issued, is different
50 than the amount set forth in the ~~estimate~~ ~~estimates~~ referenced in the publication of the bond order
51 as adopted."

1 **SECTION 5.** Part 3 of Article 3 of Chapter 159 of the General Statutes is amended
2 by adding a new section to read:

3 **"§ 159-33.2. Interim event reporting.**

4 The Secretary has the authority to require a unit of local government or public authority to
5 report events defined by the Secretary that will or may have a material, adverse effect on the
6 financial health, operations, or internal controls of the unit of local government or public
7 authority within 30 days after the occurrence of such events. The Commission shall adopt a policy
8 specifying the events required to be reported under this section and the process for reporting such
9 events. Within 30 days of adopting the policy, the Secretary shall make the policy publicly
10 available."

11 **SECTION 6.** G.S. 159-148 reads as rewritten:

12 **"§ 159-148. Contracts subject to Article; exceptions.**

13 (a) Except as provided in subsection (b) of this section, this Article applies to any
14 contract, agreement, memorandum of understanding, and any other transaction having the force
15 and effect of a contract (other than agreements made in connection with the issuance of revenue
16 bonds, special obligation bonds issued pursuant to Article 7A of this Chapter, or of general
17 obligation bonds additionally secured by a pledge of revenues) made or entered into by a unit of
18 local government (as defined by G.S. 159-7(b) or, in the case of a special obligation bond, as
19 authorized in G.S. 159-146), relating to the lease, acquisition, or construction of capital assets,
20 which contract does all of the following:

- 21 (1) Extends for five or more years from the date of the contract, including periods
22 that may be added to the original term through the exercise of options to renew
23 or extend. For units included on the most recently published Unit Assistance
24 List issued by the Department of State Treasurer, this subdivision applies to
25 transactions that extend for three or more years from the date of the contract,
26 including periods that may be added to the original term through the exercise
27 of options to renew or extend.
- 28 (2) Obligates the unit to pay sums of money to another, without regard to whether
29 the payee is a party to the contract.
- 30 (3) Obligates the unit over the full term of the contract, including periods that may
31 be added to the original term through the exercise of options to renew or
32 extend:
 - 33 a. For baseball park districts, to at least five hundred thousand dollars
34 (\$500,000).
 - 35 b. For housing authorities, to at least five hundred thousand dollars
36 (\$500,000) or a sum equal to two thousand dollars (\$2,000) per
37 housing unit owned and under active management by the housing
38 authority, whichever is less.
 - 39 c. For units included on the most recently published Unit Assistance List
40 issued by the Department of State Treasurer, to at least fifty thousand
41 dollars (\$50,000).
 - 42 d. For other units, to at least five hundred thousand dollars (\$500,000) or
43 a sum equal to one-tenth of one percent (1/10 of 1%) of the assessed
44 value of property subject to taxation by the contracting unit, whichever
45 is less.
- 46 (4) Obligates the unit, expressly or by implication, to exercise its power to levy
47 taxes either to make payments falling due under the contract, or to pay any
48 judgment entered against the unit as a result of the unit's breach of the contract.

49 Contingent obligation shall be included in calculating the value of the contract. Several
50 contracts that are all related to the same undertaking shall be deemed a single contract for the
51 purposes of this Article. When several contracts are considered as a single contract, the term shall

1 be that of the contract having the longest term, and the sums to fall due shall be the total of all
2 sums to fall due under all single contracts in the group. No contract agreement shall be divided
3 for the purpose of, or that results in, evading the requirements of this Article.

4 (b) This Article shall not apply to:

5 (1) Contracts between a unit of local government and the State of North Carolina
6 or the United States of America (or any agency of either) entered into as a
7 condition to the making of grants or loans to the unit of local government.

8 (2) Contracts for the purchase, lease, or lease with option to purchase of ~~motor~~
9 ~~vehicles or~~ voting machines.

10 (3) Repealed by Session Laws 2020-3, s. 4.30(g), effective retroactively to July
11 1, 2019.

12 (4) Contracts for the purchase, lease, or lease with option to purchase of motor
13 vehicles. This exemption shall not apply to units included on the most recently
14 published Unit Assistance List issued by the Department of State Treasurer
15 where the contract amount equals or exceeds fifty thousand dollars
16 (\$50,000)."

17 **SECTION 7.** G.S. 135-48.55 is repealed.

18 **SECTION 8.** G.S. 159-7 is amended by adding a new subsection to read:

19 "(e) A unit of local government that creates a public authority or unit subject to this Article
20 must notify the Commission of its creation. A public authority or unit subject to this Article, by
21 whatever means created, must notify the Commission within 60 days of its creation and include
22 in its notification all of the following:

23 (1) Name.

24 (2) Governance structure.

25 (3) Any other information requested by the Commission."

26 **SECTION 9.(a)** G.S. 159-29 reads as rewritten:

27 "**§ 159-29. Fidelity bonds.**

28 (a) The finance officer shall give a true accounting and faithful performance bond with
29 sufficient sureties in an amount to be fixed by the governing ~~board, not less than fifty thousand~~
30 ~~dollars (\$50,000).~~ board. A person may not be appointed as a finance officer if the person is
31 unable to obtain the bond required by this section. The premium on the bond shall be paid by the
32 local government or public authority. The amount of the bond fixed by the governing board may
33 not be less than the greater of the following:

34 (1) Fifty thousand dollars (\$50,000).

35 (2) An amount equal to ten percent (10%) of the unit's annually budgeted funds,
36 up to one million dollars (\$1,000,000).

37 (b) Each officer, employee, or agent of a local government or public authority who
38 handles or has in his custody more than one hundred dollars (\$100.00) of the unit's or public
39 authority's funds at any time, or who handles or has access to the inventories of the unit or public
40 authority, shall, before being entitled to assume his duties, give a faithful performance bond with
41 sufficient sureties payable to the local government or public authority. A person who is unable
42 to secure the bond required by this section cannot assume the duties for which a bond is required
43 under this section. The governing board shall determine the amount of the bond, and the unit or
44 public authority may pay the premium on the bond. Each bond, when approved by the governing
45 board, shall be deposited with the clerk to the board.

46 If another statute requires an officer, employee, or agent to be bonded, this subsection does
47 not require an additional bond for that officer, employee, or agent.

48 (c) A local government or public authority may adopt a system of blanket faithful
49 performance bonding as an alternative to individual bonds. If such a system is adopted, statutory
50 requirements of individual bonds, except for elected officials and for finance officers and tax
51 collectors by whatever title known, do not apply to an officer, employee, or agent covered by the

1 blanket bond. However, although an individual bond is required for an elected official, a tax
2 collector, or finance officer, such an officer or elected official may also be included within the
3 coverage of a blanket bond if the blanket bond protects against risks not protected against by the
4 individual bond."

5 **SECTION 9.(b)** This section becomes effective January 1, 2023.

6 **SECTION 10.** Except as otherwise provided, this act is effective when it becomes
7 law and applies to bonds issued under bond orders introduced on or after October 1, 2022, and
8 to contracts entered into on or after October 1, 2022.