

NORTH CAROLINA GENERAL ASSEMBLY
1971 SESSION

CHAPTER 780
HOUSE BILL 610

AN ACT TO REVISE AND AMEND THE GENERAL STATUTES RELATING TO LOCAL
GOVERNMENT FINANCE.

The General Assembly of North Carolina enacts:

Section 1. Chapter 159 of the General Statutes of North Carolina is repealed and a new chapter inserted therein as follows:

"Chapter 159.

"Local Government Finance.

"SUBCHAPTER I. SHORT TITLE AND DEFINITIONS.

"Article 1. Short Title and Definitions.

"§ 159-1. **Short title and definitions.** — (a) This chapter may be cited as The Local Government Finance Act."

(b) The words and phrases defined in this section have the meanings indicated when used in this chapter, unless the context clearly requires another meaning, or unless the word or phrase is given a more restrictive meaning by definition in another Article herein.

- (1) 'Chairman' means the Chairman of the Local Government Commission.
- (2) 'City' includes towns and incorporated villages.
- (3) 'Clerk' means an officer or employee of a local government or public authority charged by law or direction of the governing board with the duty of keeping the minutes of board meetings and conserving records evidencing official actions of the board.
- (4) 'Commission' means the Local Government Commission.
- (5) 'Publish,' 'publication,' and other forms of the word 'publish' mean insertion in a newspaper qualified under G.S. 1-597 to publish legal advertisements.
- (6) 'Secretary' means the Secretary of the Local Government Commission.

(c) Words in the singular number include the plural, and in the plural include the singular. Words of the masculine gender include the feminine and the neuter, and when the sense so indicates, words of the neuter gender may refer to any gender.

"§ 159-2. **Computation of time.** — (a) Notwithstanding any other provisions of law, whenever in this chapter an act is to be done within a given period of time, the period of time shall be computed according to the rules set out in this section.

(b) When an act is to be done within a given number of days before or after a given day, the period is computed by counting forward beginning with the day following the given day, or counting backward beginning with the day next before the given day. Saturdays, Sundays, and holidays are counted as any other day.

(c) The word 'month' means 30 days, unless the words 'calendar month' are used, in which case the number of days in the month may vary according to the calendar.

(d) The word 'year' means the calendar year.

(e) The word 'day,' when used to denote a period of time within which an act may be done, means a period of 24 hours beginning at 12:00 midnight.

(f) When a time of day is given, the time is local time in the City of Raleigh, North Carolina.

"SUBCHAPTER II. LOCAL GOVERNMENT COMMISSION.

"Article 2.

"Local Government Commission.

"§ 159-3. Local Government Commission established. — (a) The Local Government Commission shall consist of nine members, including the State Treasurer, the State Auditor, the Secretary of State, and the Commissioner of Revenue ex officio, three members appointed by the Governor, one by the Lieutenant Governor, one by the Speaker of the House to serve for a term of four (4) years. Of the five appointed members, one shall have been the mayor or a member of the governing board of a city or town, and one shall have been a member of a board of county commissioners. The State Treasurer shall be Chairman of the Local Government Commission ex officio. Membership on the Commission is hereby declared to be an office that may be held concurrently with other elective or appointive offices, as authorized by Article VI, Sec. 9, of the Constitution.

(b) The Commission shall meet at least quarterly in the City of Raleigh, and may hold special meetings at any time or place upon notice to each member given in person or by mail not later than the fifth day before the meeting. The notice need not state the purpose of the meeting.

Action of the Commission shall be taken by resolution adopted by majority vote of those present and voting. A majority of the Commission constitutes a quorum.

(c) The appointed members of the Commission are entitled to the per diem compensation and allowances prescribed by G.S. 138-5. All members are entitled to reimbursement for necessary travel and other expenses.

(d) The Commission may call upon the Attorney General for legal advice in relation to its powers and duties.

(e) The Local Government Commission shall operate as a division of the Department of the State Treasurer.

(f) The Commission may adopt rules and regulations to carry out its powers and duties.

"§ 159-4. Executive Committee; appeal — (a) The State Auditor, the State Treasurer, the Secretary of State, and the Commissioner of Revenue shall constitute the executive committee of the Local Government Commission. The executive committee is vested with all the powers of the Commission when it is not in session, except that the executive committee may not overrule, reverse, or disregard any action of the full Commission. Action of the executive committee shall be taken by resolution adopted by a majority of those present and voting. Any three members of the executive committee constitute a quorum. The Chairman may call meetings of the executive committee at any time.

(b) Any member of the Commission or any person affected by an action of the executive committee may appeal to the full Commission by filing a request for review with the Chairman within five days after the action is taken. Review of executive committee action by the full Commission shall be de novo.

"§ 159-5. Secretary and staff of the Commission. — The Chairman shall appoint a Secretary of the Commission, and may appoint such other deputies and assistants as may be necessary, who shall be responsible to the Chairman through the Secretary. The salary of the Secretary shall be fixed by the Governor with the approval of the Advisory Budget Commission. The Secretary and his deputies and assistants shall have and may exercise any power that the Chairman himself may exercise. All actions taken by the Secretary, including the signing of any documents and papers provided for in this chapter, shall be effective as though the Chairman himself had taken such action or signed such documents or papers.

"SUBCHAPTER III. BUDGETS AND FISCAL CONTROL.**"Article 3.****"The Local Government Budget and Fiscal Control Act.****"Part 1. Budgets.**

"§ 159-7. Short title; definitions. — (a) This Article may be cited as 'The Local Government Budget and Fiscal Control Act.'

(b) The words and phrases defined in this section have the meanings indicated when used in this Article, unless the context clearly requires another meaning.

- (1) 'Fiscal year' is the annual period for the compilation of fiscal operations. The fiscal year begins on July 1 and ends on June 30.
- (2) 'Budget' is a proposed plan for raising and spending money for specified programs, functions, activities or objectives during a fiscal year.
- (3) 'Budget ordinance' is the ordinance that levies taxes and appropriates revenues for specified purposes, functions, activities, or objectives during a fiscal year.
- (4) 'Budget year' is the fiscal year for which a budget is proposed or a budget ordinance is adopted.
- (5) 'Fund' is an independent fiscal and accounting entity consisting of cash and other resources together with all related liabilities, obligations, reserves, and equities which are segregated by appropriate accounting techniques, pursuant to a budget or budget ordinance, for the purpose of carrying on specific activities or attaining certain objectives in accordance with established legal regulations, restrictions, or limitations.
- (6) 'Fund balance' is the excess of cash and other assets of a fund over its liabilities, encumbrances, reserves, and deferred revenues.
- (7) 'Encumbrances' are obligations in the form of purchase orders or contracts that are chargeable to an appropriation. An obligation ceases to be an encumbrance when paid or when the actual liability is recorded.
- (8) A 'reserve' is that portion of a fund balance set aside to meet obligations or commitments which will or may fall due in a future fiscal year, amounts equal to assets other than cash, or the amount of uncollected taxes and other receivables which will be available, when and if collected, for use in a future fiscal year.
- (9) 'Deferred revenues' are taxes and other revenues collected in advance of the fiscal year in which they will become due.
- (10) 'Debt service' is the sum of money required to pay installments of principal and interest on bonds, notes, and other evidences of debt accruing within a fiscal year, and to maintain sinking funds.
- (11) 'Taxes' do not include special assessments.
- (12) 'Nontax revenues' are revenues which (i) are not taxes, or (ii) are not locally levied and collected taxes.
- (13) 'Unit,' 'unit of local government,' or 'local government' is a municipal corporation that is not subject to the Executive Budget Act (G.S. 143-1 through G.S. 143-34.2) and that has the power to levy taxes, and all boards, agencies, commissions, authorities, and institutions thereof that are not independent municipal corporations.
- (14) 'Special district' is a unit of local government (other than a county, city, town, or incorporated village) that is created for the performance of limited governmental functions or for the operation of particular utility or public service enterprises.

(15) 'Public authority' is a municipal corporation (other than a unit of local government) that is not subject to the Executive Budget Act (G.S. 143-1 through G.S. 143-34.2).

(16) 'Sinking fund' means a fund held for the retirement of term bonds.

"§ 159-8. Annual balanced budget ordinance. — Each local government and public authority shall operate under an annual balanced budget ordinance adopted and administered in accordance with this Article. A budget ordinance is balanced when the sum of estimated net revenues and appropriated fund balances is equal to appropriations. The budget ordinance shall cover a fiscal year beginning July 1 and ending June 30. Notwithstanding any other provisions of law, from and after August 1, 1973, no local government or public authority shall have any power to levy taxes or raise other revenues, incur debts, disburse money, or enter into any contract or agreement requiring the payment of money, except in accordance with a budget ordinance adopted pursuant to this Article.

"§ 159-9. Budget officer. — Each local government and public authority shall appoint a budget officer to hold office at the will of the governing board. In counties or cities having the manager form of government, the county or city manager shall be the budget officer. Counties not having the manager form of government may impose the duties of budget officer upon the county finance officer or any other county officer or employee except the sheriff, or in counties having a population of more than 7,500, the register of deeds. Cities not having the manager form of government may impose the duties of budget officer on any city officer or employee, including the mayor if he agrees to undertake them. A public authority or special district may impose the duties of budget officer on the chairman or any member of its governing board or any other officer or employee.

"§ 159-10. Budget requests. — Before April 30 of each fiscal year (or an earlier date fixed by the budget officer), each department head shall transmit to the budget officer the budget requests and revenue estimates for his department for the budget year. The budget request shall be an estimate of the financial requirements of the department for the budget year, and shall be made in such form and detail, with such supporting information and justifications, as the budget officer may prescribe. The revenue estimate shall be an estimate of all revenues to be realized by department operations during the budget year. At the same time, the finance officer or department heads shall transmit to the budget officer a complete statement of the amount expended for each category of expenditure in the budget ordinance of the immediately preceding fiscal year, a complete statement of the amount estimated to be expended for each category of expenditure in the current year's budget ordinance by the end of the current fiscal year, the amount realized from each source of revenue during the immediately preceding fiscal year, and the amount estimated to be realized from each source of revenue by the end of the current fiscal year, and such other information and data on the fiscal operations of the local government or public authority as the budget officer may request.

"§ 159-11. Preparation and submission of budget and budget message. — (a) Upon receipt of the budget requests and revenue estimates and the financial information supplied by the finance officer and department heads, the budget officer shall prepare a budget for consideration by the governing board in such form and detail as may have been prescribed by the budget officer or the governing board. The budget shall comply in all respects with the limitations imposed by G.S. 159-13(b), and unless the governing board shall have authorized or requested submission of an unbalanced budget as provided in subsection (c) of this section, the budget shall be balanced.

(b) The budget, together with a budget message, shall be submitted to the governing board not later than June 1. The budget and budget message should, but need not, be submitted at a formal meeting of the board. The budget message should contain a concise explanation of the governmental goals fixed by the budget for the budget year, should explain important features of the activities anticipated in the budget, should set forth the reasons for stated

changes from the previous year in program goals, programs, and appropriation levels, and should explain any major changes in fiscal policy.

(c) The governing board may authorize or request the budget officer to submit a budget containing recommended appropriations in excess of estimated revenues. If this is done, the budget officer shall present the appropriations recommendations in a manner that will reveal for the governing board the nature of the activities supported by the expenditures that exceed estimated revenues.

"§ 159-12. Filing and publication of the budget; budget hearings. — (a) On the same day that he submits the budget to the governing board, the budget officer shall file a copy of it in the office of the clerk to the board where it shall remain available for public inspection until the budget ordinance is adopted. The clerk shall make a copy of the budget available to all news media in the county. He shall also publish a statement that the budget has been submitted to the governing board, and is available for public inspection in the office of the clerk to the board. The statement shall also give notice of the time and place of the budget hearing required by subsection (b) of this section.

(b) Before adopting the budget ordinance, the board shall hold a public hearing at which time any persons who wish to be heard on the budget may appear.

"§ 159-13. The budget ordinance: form, adoption, limitations, tax levy, filing. — (a) Not earlier than 20 days after the budget is presented to the board and not later than July 1, the governing board shall adopt a budget ordinance making appropriations and levying taxes for the budget year in such sums as the board may deem sufficient and proper, whether greater or less than the sums recommended in the budget. The budget ordinance may be in any form that the board deems most efficient in enabling it to make the fiscal policy decisions embodied therein, but it shall be so organized that the accounting system will show appropriations and revenues by line items within at least the following funds:

- (1) General Fund.
- (2) Debt Service Fund.
- (3) School funds required by Chapters 115 and 115A of the General Statutes.
- (4) Public assistance funds required by Chapter 108 of the General Statutes.
- (5) A fund for each function or activity financed in whole or in part by property taxes voted by the people pursuant to Article V, Sec. 2(5) of the Constitution.
- (6) A fund for each utility or other public service enterprise owned and operated by the unit. When a water system and a sanitary sewer system are operated as a consolidated system, one fund may be established and maintained for the consolidated system.
- (7) A capital project fund for each bond order to account for the proceeds of bonds issued thereunder and for all other resources used for the acquisition of fixed assets financed by the bond proceeds.
- (8) A fund for each special district whose taxes are collected by the unit.

The board may establish any other funds it deems advisable.

Portions of the budget ordinance applicable to school administrative units, community colleges, and technical institutes shall be organized as provided in Chapters 115 and 115A of the General Statutes.

(b) The following directions and limitations shall bind the governing board in adopting the budget ordinance:

- (1) The full amount estimated by the finance officer to be required for debt service during the budget year shall be appropriated.
- (2) The full amount of any deficit in each fund shall be appropriated.
- (3) A contingency appropriation may not exceed 5% of the total of all other appropriations in the same fund, except contingency appropriations in public

- assistance funds maintained pursuant to Chapter 108 of the General Statutes. Each expenditure to be charged against a contingency" appropriation shall be authorized by resolution of the governing board, which resolution shall be deemed an amendment to the budget ordinance setting up an appropriation for the object of expenditure authorized. The governing board may authorize the budget officer to authorize expenditures from contingency appropriations subject to such limitations and procedures as it may prescribe. Any such expenditures shall be reported to the board at its next regular meeting and recorded in the minutes.
- (4) No appropriation may be made that would require the levy of a tax in excess of any constitutional or statutory limitation, or expenditures of revenues for purposes not permitted by law.
 - (5) The total of all appropriations for purposes which require voter approval for expenditure of tax funds under Article V, Sec. 2(5), of the Constitution shall not exceed the total of all estimated nontax revenues (not including nontax revenues required by law to be spent for specific purposes) and taxes levied for such purposes pursuant to a vote of the people.
 - (6) The estimated percentage of collection of property taxes shall not be greater than the percentage of the levy actually realized in cash as of June 30 during the preceding fiscal year.
 - (7) Amounts to be realized from collection of taxes levied in prior fiscal years shall be included in estimated revenues.
 - (8) The estimates of revenues other than the property tax shall not exceed the amount actually realized in cash from each source in the preceding fiscal year, unless the governing board determines that the facts warrant the expectation that the estimated amount will actually be realized in cash during the budget year.
 - (9) No appropriation may be made from funds established pursuant to Chapters 115 and 115A of the General Statutes to any other fund except to a capital reserve fund account for school purposes or to the debt service fund for servicing school-related debt.
 - (10) Appropriations made to another fund from a fund established to account for property taxes levied pursuant to a vote of the people may not exceed the amount of revenues other than the property tax available to the fund.
 - (11) No appropriations may be made from a fund established to account for taxes collected on behalf of a special district to any other fund unless the special district has ceased to exist or to levy taxes.
 - (12) No appropriations may be made from a public assistance fund maintained in accordance with Chapter 108 of the General Statutes to any other fund except in accordance with G.S. 108-57.
 - (13) No appropriation may be made from a capital project fund established to account for the proceeds of a bond issue except (i) for the purpose for which the bonds were issued, (ii) to the appropriate debt service fund, or (iii) to an account within a capital reserve fund consistent with the purposes for which the bonds were issued.
 - (14) No appropriation may be made from a utilities or public service enterprise fund to any fund other than the debt service fund unless the total of all other appropriations in the fund equal or exceed the amount required to meet current operating expenses, authorized capital outlay, and debt service currently due on outstanding utility or enterprise bonds or notes.

Notwithstanding paragraphs (9), (10), (11), (12), or (14) of this subdivision, any fund may contain an appropriation to another fund to cover the cost of (i) levying and collecting the taxes and other revenues allocated to the fund, and (ii) building maintenance and other general overhead and administrative expenses properly allocable to functions or activities financed from the fund.

(c) The budget ordinance of a local government shall levy taxes on property at rates that will produce the revenue necessary to balance appropriations and revenues, after taking into account the estimated percentage of the levy that will not be collected during the fiscal year. The budget ordinance of a public authority shall be balanced so that appropriations do not exceed revenues.

(d) The budget ordinance shall be entered in the minutes of the governing board and within 5 days after adoption copies thereof shall be filed with the finance officer, the budget officer, and the clerk to the governing board.

"§ 159-14. Budgets of special districts. — If the tax-levying power of a special district is by law exercised on its behalf by a county or city, and if the county or city governing board is vested by law with discretion as to what rate of tax it will levy on behalf of the special district, the governing board of the special district shall transmit to the governing board of the county or city on or before June 1 a request to levy taxes on its behalf for the budget year at a stated rate. The county or city governing board shall then determine what rate of tax it will approve, and shall so notify the district governing board not later than June 15. Failure of the county or city governing board to act on the district's request on or before June 15 and to so notify the district governing board by that date shall be deemed approval of the full rate requested by the district governing board. Upon receiving notification from the county or city governing board as to what rate of tax will be approved, the district governing board shall complete its budget deliberations and shall adopt its budget ordinance.

If the taxes of a special district are collected on its behalf by a county or city, and if the county or city governing board has no power to approve the district tax levy, the district governing board shall adopt its budget ordinance not later than July 1 and on or before July 15 shall notify the county or city collecting its taxes of the rate of tax it has levied. If the district does not notify the county or city governing board on or before July 15 of the rate of tax it has levied, the county or city is not required to collect the district's taxes for the fiscal year.

"§ 159-15. Amendments to the budget ordinance. — Except as otherwise restricted by law, the governing board may amend the budget ordinance at any time after its adoption in any manner which could have been done at the time it was adopted. However, no amendment may increase or reduce a tax levy or in any manner alter a taxpayer's liability, unless the board is ordered to do so by a court of competent jurisdiction, or by a State agency having the power to compel the levy of taxes by the board.

The governing board by appropriate resolution or ordinance may authorize the budget officer to transfer monies from one appropriation to another within the same fund subject to such limitations and procedures as it may prescribe. Any such transfers shall be reported to the governing board at its next regular meeting and shall be entered in the minutes.

"§ 159-16. Interim budget. — In case the adoption of the budget ordinance is delayed until after July 1, the governing board shall make interim appropriations for the purpose of paying salaries, debt service payments, and the usual ordinary expenses of the local government or public authority for the interval between the beginning of the budget year and the adoption of the budget ordinance. Interim appropriations so made shall be charged to the proper appropriations in the budget ordinance.

"§ 159-17. Ordinance procedures not applicable to budget adoption. — Notwithstanding the provisions of any city charter, general law, or local act, any action with respect to the adoption of the budget ordinance may be taken at any regular or special meeting of the governing board by a simple majority of those present and voting, a quorum being present.

Actions taken with respect to a budget ordinance need not be published or subjected to any other procedural requirements governing the adoption of ordinances or resolutions by the governing board other than the procedures set out in this Article. The adoption of the budget ordinance and the levy of taxes therein shall not be subject to the provisions of any city charter or local act concerning initiative and referendum. During the 20 day period beginning with the submission of the budget, the governing board may hold any special meetings that may be necessary to complete its work on the budget ordinance, and any provisions of law concerning the call of special meetings shall not apply during that time so long as (i) each member of the board has actual notice of each special meeting called for the purpose of considering the budget, and (ii) no business other than consideration of the budget is taken up. Nothing in this section shall be construed to allow the holding of closed meetings or executive sessions by any governing board otherwise prohibited by law from holding them.

"Part 2. Capital Reserve Funds.

"§ 159-18. **Capital reserve funds.** — Any local government or public authority may establish and maintain a capital reserve fund for any purposes for which it may issue bonds. A capital reserve fund shall be established by resolution or ordinance of the governing board which shall state (i) the purposes for which the fund is created, (ii) the approximate periods of time during which the monies are to be accumulated for each purpose, (iii) the approximate amounts to be accumulated for each purpose, and (iv) the sources from which monies for each purpose will be derived.

"§ 159-19. **Amendments.** — The resolution may be amended from time to time in the same manner in which it was adopted. Amendments may, among other provisions, authorize the use of monies accumulated or to be accumulated in the fund for capital outlay purposes not originally stated.

"§ 159-20. **Funding capital reserve funds.** — Capital reserve funds may be funded by appropriations and transfer of monies or investment securities from any other fund consistent with the limitations imposed in G.S. 159-43(b). When monies or investment securities, the use of which is restricted by law, come into a capital reserve fund, the identity of such monies or investment securities shall be maintained by appropriate accounting entries.

"§ 159-21. **Investment.** — The cash balances, in whole or in part, of capital reserve funds may be deposited at interest or invested as provided by G.S. 159-30.

"§ 159-22. **Withdrawals.** — Withdrawals from a capital reserve fund may be authorized by resolution of the governing board of the local government or public authority. No withdrawal may be authorized for any purpose not specified in the resolution or ordinance establishing the fund or in a resolution or ordinance amending it. The withdrawal resolution or ordinance shall authorize the disbursement of monies from the capital reserve fund to an appropriate appropriation in one of the funds maintained pursuant to G.S. 159-13(a). No withdrawal may be made which would result in the appropriation of monies or investment securities for purposes for which an adequate balance of eligible monies or investment securities is not then available in the capital reserve fund. Withdrawals from a capital reserve fund account established for school purposes may be made only upon the request of the appropriate board of education or board of trustees. Withdrawals from a capital reserve fund account established for public health or mental health purposes may be made only upon the request of the appropriate board of health or mental health authority.

"Part 3. Fiscal Control.

"§ 159-24. **Finance officer.** — Each local government and public authority shall appoint a finance officer to hold office at the pleasure of the appointing board or official. The finance officer may be entitled 'accountant,' 'treasurer,' 'finance director,' 'finance officer,' or any other reasonably descriptive title. Except as hereinafter provided, the duties of the finance officer

may be imposed on the budget officer or any other officer or employee on whom the duties of budget officer may be imposed.

"§ 159-25. Duties of finance officer, dual signatures on checks; internal control procedures subject to Commission regulation. — (a) The finance officer shall have the following powers and duties:

- (1) He shall keep the accounts of the local government or public authority in accordance with generally accepted principles of governmental accounting and the rules and regulations of the Commission.
- (2) He shall disburse all funds of the local government or public authority in strict compliance with this chapter and the local budget ordinance, and shall countersign and give his pre-audit certificate to (i) all checks and drafts disbursing money, and (ii) all contracts, purchase orders, and other instruments or documents obligating the local government or public authority to disburse money.
- (3) As often as may be requested by the governing board or the manager, he shall prepare and file with the board a statement of the financial condition of the local government or public authority.
- (4) He shall receive and deposit all monies accruing to the local government or public authority, or supervise the receipt and deposit of money by other duly authorized officers or employees.
- (5) He shall maintain all records concerning the bonded debt of the local government or public authority, determine the amount of money that will be required for debt service during each fiscal year, and maintain all sinking funds.
- (6) He shall supervise the investment of idle funds of the local government or public authority.
- (7) He shall perform such other duties as may be assigned to him by law, by the manager, budget officer, or governing board, or by rules and regulations of the Commission.

All references in other portions of the General Statutes, local acts, or city charters to county, city, special district, or public authority accountant, treasurers, or other officials performing any of the duties conferred by this section on the finance officer shall be deemed to refer to the finance officer.

(b) Except as otherwise provided by law, all checks or drafts on an official depository, and all other instruments or documents converting demand deposits, time deposits, investment securities, or other assets into cash, negotiable instruments, or any other form of deposit or investment shall be signed by the finance officer and countersigned by another official of the local government or public authority designated for this purpose by the governing board. If the board makes no other designation, the chairman of the board or chief executive officer of the local government or public authority shall countersign these instruments and documents.

(c) The Local Government Commission has authority to issue rules and regulations governing procedures for the receipt, deposit, investment, transfer, and disbursement of money and other assets by units of local government and public authorities, may inquire into and investigate the internal control procedures of a local government or public authority, and may require any modifications in internal control procedures which, in the opinion of the Commission, are necessary or desirable to prevent embezzlements or mishandling of public monies.

"§ 159-26. Accounting system. — The finance officer shall maintain an accounting system designed to show in detail the amount of estimated revenue of each fund anticipated from each source specified in the budget ordinance as originally adopted and subsequently amended, the amount of revenue collected, and the uncollected balance thereof. The accounting system shall

also be designed to show in detail the amount appropriated for each category of expenditure in the budget ordinance as originally adopted and subsequently amended, the amount of expenditures charged against each appropriation, the encumbrances outstanding against each appropriation, and the unencumbered balance to the credit of each appropriation. In addition, the accounting system shall be so designed that the true financial condition of the local government or public authority can be ascertained therefrom. The Commission may prescribe rules and regulations having the force of law as to features of accounting systems to be maintained by local governments and public authorities. Such rules and regulations may be varied according to the size of the local government or public authority, or any other criteria reasonably related to the complexity of the fiscal operations involved.

"§ 159-27. Distribution of tax collections among funds according to levy. — (a) Property tax collections shall be distributed among the appropriate funds, according to the levy, at least monthly.

(b) Taxes collected during the current fiscal year, that were levied in any one of the two immediately preceding fiscal years, shall be distributed to the appropriate funds according to the levy of the fiscal year in which they were levied. If any fund for which such taxes were levied is not being maintained in the current fiscal year, the proportionate share of the tax that would have been distributed to the discontinued fund shall be allocated (i) to the fund from which the activity or function for which the tax was levied is then being financed, or (ii) to the General Fund if the activity or function for which the tax was levied is no longer being performed.

(c) Taxes collected during the current fiscal year, that were levied in any prior fiscal year other than one of the two immediately preceding fiscal years, may be distributed in the discretion of the governing board either (i) to the General Fund, or (ii) in accordance with subsection (b) of this section. This subsection shall not repeal any portion of a local act or city charter inconsistent herewith and in effect on July 1, 1973.

"§ 159-28. Pre-audit of disbursements. — (a) No bill or claim against a local government or public authority may be paid unless it has been approved by the officer or employee charged with the duty of administering that portion of the budget ordinance to which it is to be charged. No bill or claim may be paid in any form other than a check or draft on an official depository designated in accordance with G.S. 159-31. No check or draft drawn on a local government or public authority depository shall be valid unless it bears upon its face a certificate signed by the finance officer in substantially the following form: 'Provision for the payment of this check (or draft) has been made by an appropriation duly made or bonds or notes duly authorized, pursuant to the Local Government Budget and Fiscal Control Act.' Certificates in the form prescribed by G.S. 153-131 or G.S. 160-411.1, as those sections read on June 30, 1973, shall be sufficient.

The governing board of the local government or public authority may provide by appropriate resolution or ordinance for the use of facsimile signature machines or signature stamps in signing checks and drafts. The governing board shall charge the finance officer or some other bonded officer or employee with the custody of these machines, stamps, or signature plates, and he and the sureties on his official bond shall be liable for any illegal, improper, or unauthorized use of them.

The governing board may allow a bill or claim that has been disallowed by the finance officer, but only by formal resolution entered in the minutes together with the names of those voting in the affirmative. The resolution shall state the board's reasons for allowing the bill or claim and shall specify who is to sign the check or draft to be given in payment thereof. The check or draft shall not bear the certificate of pre-audit required by this section, and shall be paid by the depository upon presentation of a certified copy of the resolution authorizing it. If payment of any such bill or claim results in a violation of any provisions of this Chapter,

members of the governing board voting to allow the bill or claim shall be jointly and severally liable for the full amount of the check or draft.

(b) No contract or agreement requiring the payment of money, nor any requisition or purchase order for supplies or materials, may be made unless (i) an appropriation therefor appears in the budget ordinance and a sufficient unencumbered balance remains in the appropriation to pay the sums to fall due thereunder during the fiscal year, or (ii) provision for payment of the sums to fall due has been made by the sale of bonds or notes duly issued or authorized to be issued in accordance with law, or (iii) provision for the payment of the sums to fall due thereunder has been made by a grant or loan or binding commitment of funds to be granted or loaned to the local government or public authority by a State or federal agency. No contract, agreement, requisition, or purchase order requiring the payment of money by a local government or public authority shall be valid and enforceable unless it bears on its face a certificate signed by the finance officer in substantially the following form (adding the words in brackets for continuing contracts): 'Provision for the payment of monies to fall due under this agreement [within the current fiscal year] has been made by appropriation duly authorized, bonds or notes duly authorized, or binding grants or loans or grant or loan commitments duly made, as required by the Local Government Budget and Fiscal Control Act.' Certificates in the form prescribed by G.S. 153-130 or G.S. 160-411 as those sections read on June 30, 1973, shall be sufficient. The certificate shall not make valid any contract or agreement not otherwise valid or made in violation of this Article.

(c) If the finance officer gives a false certificate to any check, draft, contract, agreement, requisition, or purchase order, he and the sureties on his official bond are liable for any sums illegally disbursed or committed thereby. If any officer or employee makes any contract or agreement on behalf of the local government or public authority without obtaining the finance officer's certificate thereon, or if any officer or employee pays out or causes to be paid out any funds in violation of this section, he is personally liable for the sums so disbursed or committed.

"§ 159-29. Finance officer's bond. — The finance officer shall give a true accounting and faithful performance bond with sufficient sureties in an amount to be fixed by the governing board, not less than \$10,000 nor more than \$100,000: The premium on the bond shall be paid by the local government or public authority.

"§ 159-30. Investment of idle funds. — (a) A local government or public authority may deposit at interest or invest all or part of the cash balance of any fund. The finance officer shall manage investments subject to whatever restrictions and directions the governing board may impose. The finance officer shall have the power to purchase, sell, and exchange securities on behalf of the governing board. The investment program shall be so managed that investments and deposits can be converted into cash when needed.

(b) Monies may be deposited at interest in any bank or trust company in this State in the form of time deposits, certificates of deposit, or such other form of deposit as the Commission may approve. Investment deposits shall be secured as provided in G.S. 159-31(b).

(c) Monies may be invested in the following classes of securities, and no others:

- (1) Obligations of the United States of America.
- (2) Obligations of any agency or instrumentality of the United States of America if the payment of interest and principal of such obligations is fully guaranteed by the United States of America.
- (3) Obligations of the State of North Carolina.
- (4) Bonds and notes of any North Carolina local government or public authority, subject to such restrictions as the Secretary may impose.
- (5) Shares of any savings and loan association organized under the laws of this State and shares of any federal savings and loan association having its principal office in this State, to the extent that the investment in such shares

is fully insured by the United States of America or an agency thereof or by any mutual deposit guaranty association authorized by the Commissioner of Insurance of North Carolina to do business in North Carolina pursuant to Article 7A of Chapter 54 of the General Statutes.

(6) Obligations of the Federal Intermediate Credit Banks, the Federal Home Loan Banks, and the Federal National Mortgage Association, the Banks for Cooperatives, and the Federal Land Banks, maturing no later than 18 months after the date of purchase.

(7) Any form of investment allowed by law to the State Treasurer.

(d) Investment securities may be bought, sold, and traded by private negotiation, and local governments and public authorities may pay all incidental costs thereof and all reasonable costs of administering the investment and deposit program. Securities and deposit certificates shall be in the custody of the finance officer who shall be responsible for their safekeeping and for keeping accurate investment accounts and records.

(e) Interest earned on deposits and investments shall be credited to the fund whose cash is deposited or invested. Cash of several funds may be combined for deposit or investment if not otherwise prohibited by law; and when such joint deposits or investments are made, interest earned shall be prorated and credited to the various funds on the basis of the amounts thereof invested, figured according to an average periodic balance or some other sound accounting principle. Interest earned on the deposit or investment of bond funds shall be deemed a part of the bond proceeds.

(f) Registered securities acquired for investment may be released from registration and transferred by signature of the finance officer.

"§ 159-31. Selection of depository; deposits to be secured. — (a) The governing board of each local government and public authority shall designate as its official depositories one or more banks or trust companies in this State or, with the written permission of the Secretary, a National Bank located in another state. The names and addresses of the depositories shall be reported to the Secretary. It shall be unlawful for any public monies to be deposited in any place, bank, or trust company other than an official depository, except as permitted by G.S. 159-30(b).

(b) The amount of funds on deposit in an official depository or deposited at interest pursuant to G.S. 159-30(b) shall be fully secured by deposit insurance, surety bonds, or investment securities of such nature, in such amounts, and in such manner, as may be prescribed by rule or regulation of the Local Government Commission. When deposits are secured in accordance with this subsection, no public officer or employee may be held liable for any losses sustained by a local government or public authority because of the default or insolvency of the depository. No security is required for the protection of funds remitted to and received by a bank or trust company acting as fiscal agent for the payment of principal and interest on bonds or notes, when the funds are remitted no more than 60 days prior to the maturity date.

"§ 159-32. Daily deposits. — Each officer and employee of a local government or public authority whose duty it is to collect or receive any taxes or other monies shall deposit his collections and receipts daily. If the governing board gives it approval, deposits shall be required only when the monies on hand amount to as much as \$250, but in any event a deposit shall be made on the last business day of the month. All deposits shall be made in an official depository, and shall be immediately reported to the finance officer by means of a duplicate deposit ticket. The finance officer shall audit at least monthly the accounts of any officer or employee collecting or receiving taxes or other monies, and may prescribe the form and detail of these accounts. All collections and receipts by an officer or employee other than the finance officer shall be deposited in special clearing accounts and withdrawals therefrom shall be made only upon the order of the finance officer.

"§ 159-33. Semiannual reports on status of deposits and investments. — Each officer having custody of any funds of any local government or public authority shall report to the Secretary on January 1 and July 1 of each year (or such other dates as he may prescribe) the amounts of funds then in his custody, the amounts of deposits of such funds in depositories, a list of all investment securities and time deposits held by the local government or public authority, and a description of the surety bonds or investment securities securing demand and time deposits. If the Secretary finds at any time that any funds of any unit are not properly deposited or secured, or are invested in securities not eligible for investment, he shall notify the officer in charge of the funds of the failure to comply with law. Upon such notification the officer shall comply with the law within 30 days, except as to the sale of securities not eligible for investment which shall be sold within nine months at a price to be approved by the Secretary. The Commission may extend the time for sale of ineligible securities, but no one extension may cover a period of more than one year.

"§ 159-34. Annual independent audit. — Each unit of local government and public authority shall have its accounts audited as soon as possible after the close of each fiscal year by a certified public accountant or by an accountant certified by the Commission as qualified to audit local government accounts. The auditor shall be selected by and shall report directly to the governing board. The audit contract or agreement shall be in writing, shall include all its terms and conditions, and shall be submitted to the Secretary for his approval as to form, terms and conditions. The terms and conditions of the audit contract shall include the scope of the audit, and the requirement that upon completion of the examination the auditor shall prepare a typewritten or printed report embodying financial statements and his opinion and comments relating thereto. The finance officer shall file a copy of the audit report with the Secretary, and shall submit all bills or claims for audit fees and costs to the Secretary for his approval. It shall be unlawful for any unit of local government or public authority to pay or permit the payment of such bills or claims without this approval. Each officer and employee of the local government or local public authority having custody of public money or responsibility for keeping records of public financial or fiscal affairs shall produce all books and records requested by the auditor and shall divulge such information relating to fiscal affairs as he may request. If any member of a governing board or any other public officer or employee shall conceal, falsify, or refuse to deliver or divulge any books, records, or information, with an intent thereby to mislead the auditor or impede or interfere with the audit, he is guilty of a misdemeanor and upon conviction thereof may be fined not more than \$1,000, or imprisoned for not more than one year, or both, in the discretion of the court.

"§ 159-35. Secretary of Local Government Commission to notify units of debt service obligations. — (a) The Secretary shall mail to each local government and public authority not later than May 1 of each year a statement of its debt service obligations for the coming fiscal year, including sums to be paid into sinking funds.

(b) The Secretary shall mail to each local government and public authority not later than 30 days prior to the due date of each installment of principal or interest on outstanding debt, a statement of the amount of principal and interest so payable, the due date, the place to which the payments should be sent, and a summary of the legal penalties for failing to meet debt service obligations.

"§ 159-36. Failure of local government to levy debt service taxes or provide for payment of debt. — If any local government or public authority fails or refuses to levy taxes or allocate other revenues in an amount sufficient to meet all installments of principal and interest falling due on its debt during the budget year, or to adequately maintain its sinking funds, the Commission shall enter an order directing and commanding the governing board of the local government or public authority to enact a budget ordinance levying the necessary taxes or raising the necessary revenue by whatever means are legally available. If the governing board shall fail or refuse to comply with the Commission's order within ten days, the order shall have

the same legal force and effect as if the actions therein commanded had been taken by the governing board, and the appropriate officers and employees of the local government or public authority shall proceed to collect the tax levy or implement the plan for raising the revenue to the same extent as if such action had been authorized and directed by the governing board. Any officer, employee, or member of the governing board of any local government or public authority who willfully fails or refuses to implement an order of the Local Government Commission issued pursuant to this section forfeits his office or position.

"§ 159-37. Reports on status of sinking funds. — Each unit or public authority maintaining any sinking fund shall transmit to the Secretary upon his request financial reports on the status of the fund and the means by which monies are obtained for deposit therein. The Secretary shall determine from this information whether the sinking funds are being properly maintained, and if he shall find that they are not, he shall order the unit to take such action as may be necessary to maintain the funds in accordance with law.

"§ 159-38. Local units authorized to accept their bonds in payment of certain claims and judgments. — Any unit of local government or public authority may accept its own bonds, at par, in settlement of any claim or judgment that it may have against any person, firm, corporation, or association due to funds held in an insolvent bank, trust company, or savings and loan association.

"SUBCHAPTER IV. LONG-TERM FINANCING.

"Article 4.

"Local Government Bond Act.

"Part 1. Operation of Article.

"§ 159-43. Short title; legislative intent. — (a) This Article may be cited as 'The Local Government Bond Act.'

(b) It is the intent of the General Assembly by enactment of this Article to prescribe a uniform system of limitations upon and procedures for the exercise by all units of local government in North Carolina of the power to borrow money secured by a pledge of the taxing power. To this end, all special, local, or private acts in effect as of July 1, 1973, authorizing the issuance of bonds or notes secured by a pledge of the taxing power and prescribing procedures therefor are hereby repealed, and no special, local, or private act taking effect after July 1, 1973, shall be construed to modify, amend, or repeal any portion of this Article unless it shall expressly so provide by specific reference to the appropriate section of this Article.

"§ 159-44 Definitions. — The words and phrases defined in this section shall have the meanings indicated when used in this Article, unless the context clearly requires another meaning:

- (1) 'Unit,' 'unit of local government,' or 'local government' means counties; cities, towns and incorporated villages; sanitary districts; mosquito control districts; hospital districts; metropolitan sewerage districts; and watershed improvement districts.
- (2) 'Governing board' or 'board' means the governing body of a unit of local government.
- (3) 'Utility or public service enterprise' includes:
 - i. electric power transmission and distribution systems;
 - ii. water supply facilities and distribution systems;
 - iii. sewage collection and disposal systems;
 - iv. gas transmission and distribution systems;
 - v. public transportation systems, including but not limited to bus lines, ferries, and mass transit systems;
 - vi. solid waste collection and disposal systems and facilities;
 - vii. cable television systems;

- viii. off-street parking facilities and systems;
 - ix. public auditoriums, coliseums, stadiums and convention centers;
 - x. airports; and
 - xi. hospitals and other health-related facilities.
- (4) 'Finance officer' means the officer performing the duties of finance officer of a unit of local government pursuant to G.S. 159-24 of the Local Government Budget and Fiscal Control Act.
- (5) 'Sinking fund' means a fund held for the retirement of term bonds.

"§ 159-45 All general obligation bonds subject to Local Government Bond Act. — So unit of local government in this State shall have authority to enter into any contract or agreement, whether oral or written, whereby it borrows money and makes an express or implied pledge of its power to levy taxes as security for repayment of the loan except by the issuance of its bonds in accordance with the limitations and procedures prescribed in this Article or by the issuance of its negotiable notes in accordance with the limitations and procedures prescribed in Article 9 of this Chapter.

"§ 159-46 Faith and credit pledged. — The faith and credit of the issuing unit are hereby pledged for the payment of the principal of and interest on all bonds issued under this Article according to their terms, and the power and obligation of the issuing unit to levy taxes and raise other revenues for the prompt payment of installments of principal and interest or for the maintenance of sinking funds shall be unrestricted as to rate or amount, notwithstanding any other provisions of law whether general, special, local, or private.

"§ 159-47. Additional security for utility or public service enterprise bonds. — (a) The revenues of a utility or public service enterprise owned or leased by a unit of local government shall be applied in accordance with the following priorities:

- (1) First, to pay the operating, maintenance, and capital outlay expenses of the utility or enterprise.
- (2) Second, to pay when due the interest on and principal of outstanding bonds issued for capital projects that are or were a part of the utility or enterprise.
- (3) Third, for any other lawful purpose.

(b) In the discretion of the governing board of the issuing unit, the bond order may pledge the revenues (or any portion of the revenues) of a utility or public service enterprise to the payment of the interest on and principal of bonds issued under this Article to finance capital projects that are to become a part of the utility or enterprise.

(c) In the discretion of the governing board of the issuing unit, a bond order authorizing the issuance of bonds under this Article to finance capital projects that are to become a part of a utility or public service enterprise owned or leased by the issuing unit may state that the revenues of the utility or enterprise may be pledged to the payment of the interest on and principal of the bonds if and to the extent that the governing board of the unit shall thereafter determine by resolution (prior to the issuance of the bonds), and that a tax sufficient to pay the principal of and interest on the bonds shall be annually levied and collected by the issuing unit on all taxable property within its taxing jurisdiction, but that in the event that any revenues of the utility or enterprise shall be pledged to the payment of the bonds, the tax may be reduced by the amount of utility or enterprise revenues available for the payment of the principal and interest. A pledge of utility or enterprise revenues pursuant to this subsection shall be made by resolution of the governing board of the issuing unit after the bond order is adopted and before bonds are issued thereunder.

(d) When a pledge of utility or enterprise revenues is made pursuant to this section, the issuing unit shall have, with respect to the utility or enterprise whose revenues are pledged, all of the powers set out in G.S. 159-83 and G.S. 159-89.

"§ 159-48. **For what purposes bonds may be issued.** — Each unit of local government is hereby authorized to borrow money and issue its bonds under this Article in evidence thereof for any one or more of the following purposes:

- (1) For any purpose for which it may raise or appropriate money, except for current expenses.
- (2) To suppress riots, insurrections, or any extraordinary breach of law and order.
- (3) To supply an unforeseen deficiency in the revenue, when taxes actually received or collected during a fiscal year fall below collection estimates made in the annual budget ordinance within the limitations prescribed in G.S. 159-13.
- (4) To meet emergencies immediately threatening the public health or safety, as conclusively determined in writing by the Governor.
- (5) For counties, to finance the cost of the octennial revaluation of real property for taxation.
- (6) To refund outstanding revenue bonds or revenue bond anticipation notes.
- (7) To fund or refund any valid, existing debt of the unit.

The cost of preparing, issuing, and marketing bonds shall be deemed a part of the purpose for which the bonds are issued.

"§ 159-49. **When a vote of the people is required.** — Bonds may be issued under this Article only if approved by a vote of the qualified voters of the issuing unit as provided in this Article, except that voter approval shall not be required for:

- (1) Funding or refunding bonds.
- (2) Bonds issued for the purpose of suppressing riots or insurrections, or any extraordinary breach of law and order.
- (3) Bonds issued to supply an unforeseen deficiency in the revenue.
- (4) Bonds issued to meet emergencies immediately threatening the public health or safety, as conclusively determined in writing by the Governor.
- (5) Bonds issued by a county or city for any purpose authorized by G.S. 159-48(1),(5), or (6) in an aggregate principal sum not exceeding two-thirds of the amount by which the outstanding general obligation bonded debt of the issuing county or city has been reduced during the next preceding fiscal year. Pursuant to Article V, Sec.4(2)(f) of the Constitution, the General Assembly hereby declares that the purposes authorized by G.S. 159-48(1), (5), and (6) are purposes for which bonds may be issued without a vote of the people, to the extent of two-thirds of the amount by which the outstanding debt of the issuing county or city was reduced in the last preceding fiscal year.

"Part 2.

"Procedure for Issuing Bonds.

"§ 159-50. **Notice of intent to make application for issuance of voted bonds; objection by citizens and taxpayers.** — When a unit of local government proposes to issue bonds that must be approved by a vote of the people, it shall first publish a notice of its intent to make application to the Commission for approval of the issue. The notice shall be published once not less than 10 days before the application is filed. The notice shall state (i) that the board intends to file an application with the Commission for approval of a bond issue, (ii) in brief and general terms the purpose of the proposed issue, (iii) the maximum amount of bonds to be issued, and (iv) that any citizen or taxpayer of the issuing unit may, within 7 days after the date of the publication, file with the governing board and the Commission a statement of any objections he may have to the issue. The Commission may prescribe the form of the notice.

Any citizen or taxpayer of the issuing unit who objects to the proposed bond issue in whole or in part may, within 7 days from the date of publication of the notice, file a written statement of his objections with the board and the Commission. The statement shall set forth each objection to the proposed bond issue and shall contain the name and address of the person filing it. The Commission shall consider the statement of objections along with the application and shall notify the objector and the board of its disposition of each objection.

Failure to comply with this section shall not affect the validity of any bonds otherwise issued in accordance with the law. This section shall not apply to bonds that need not be submitted to a vote of the people.

"§ 159-51. Application to Commission for approval of bond issue; preliminary conference; acceptance of application. — No bonds may be issued under this Article unless the issue is approved by the Local Government Commission. The governing board of the issuing unit shall file an application for Commission approval of the issue with the Secretary of the Commission. The application shall state such facts and have attached to it such documents concerning the proposed bonds and the financial condition of the issuing unit as the Secretary may require. The Commission may prescribe the form of the application.

Before he accepts the application, the Secretary may require the governing board or its representatives to attend a preliminary conference to consider the proposed bond issue.

After an application in proper form has been filed, and after a preliminary conference if one is required, the Secretary shall notify the unit in writing that the application has been filed and accepted for submission to the Commission. The Secretary's statement shall be conclusive evidence that the unit has complied with this section.

"§ 159-52. Approval of application by Commission. — (a) In determining whether a proposed bond issue shall be approved, the Commission may consider:

- (1) Whether the project to be financed from the proceeds of the bond issue is necessary or expedient.
- (2) The nature and amount of the outstanding debt of the issuing unit.
- (3) The unit's debt management procedures and policies.
- (4) The unit's tax and special assessments collection record.
- (5) The unit's compliance with the Local Government Budget and Fiscal Control Act.
- (6) Whether the unit is in default in any of its debt service obligations.
- (7) The unit's present tax rates, and the increase in tax rate, if any, necessary to service the proposed debt.
- (8) The unit's appraised and assessed value of property subject to taxation.
- (9) The ability of the unit to sustain the additional taxes necessary to service the debt.
- (10) The ability of the Commission to market the proposed bonds at reasonable interest rates.
- (11) If the proposed issue is for a utility or public service enterprise, the probable net revenues of the project to be financed and the extent to which the revenues of the utility or enterprise, after addition of the revenues of the project to be financed, will be sufficient to service the proposed debt.
- (12) Whether the amount of the proposed debt will be adequate to accomplish the purpose for which it is to be incurred.

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

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

- (1) That the proposed bond issue is necessary or expedient.

- (2) That the amount proposed is adequate and not excessive for the proposed purpose of the issue.
- (3) That the unit's debt management procedures and policies are good, or that reasonable assurances have been given that its debt will henceforth be managed in strict compliance with law.
- (4) That the increase in taxes, if any, necessary to service the proposed debt will not be excessive.
- (5) That the proposed bonds can be marketed at reasonable rates of interest.

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

"§ 159-53. Order approving or disapproving an application. — (a) After considering an application, and conducting a public hearing thereon if one is requested under G.S. 159-52(b), the Commission shall enter its order either approving or denying the application. An order approving an issue shall not be regarded as an approval of the legality of the bonds in any respect.

(b) If the Commission shall enter an order denying an application, the proceedings under this subchapter shall be at an end.

"§ 159-54. The bond order. — After or at the same time the application is filed and accepted for submission to the Commission, a bond order shall be introduced before the governing board of the issuing unit. The bond order shall state:

- (1) Briefly and generally, the purpose for which the bonds are to be issued, but not more than one purpose may be stated. For funding or refunding bonds a brief description of the debt to be funded or refunded shall be sufficient.
- (2) The maximum aggregate principal amount of the bonds.
- (3) That taxes will be levied in an amount sufficient to pay the principal and interest of the bonds.
- (4) The extent, if any, to which utility or enterprise revenues are, or may be, pledged to payment of interest on and principal of the bonds pursuant to G.S. 159-47.
- (5) That a sworn statement of debt has been filed with the clerk and is open to public inspection.
- (6) If the bonds are to be approved by the voters, that the bond order will take effect when approved by the voters.
- (7) If the bonds are not to be submitted to the voters, that the bond order will take effect 30 days after its publication following final passage, unless it is petitioned to a vote of the people as provided in G.S. 159-60, and that in that event the order will take effect when approved by the voters.

When the bond order is introduced, the board shall fix the time and place for a public hearing thereon.

In stating the purpose of a bond issue, the bond order need not specify the location of any project to be financed thereby, nor the material of construction or any other details of the project beyond the general purpose.

"§ 159-55. Sworn statement of debt; debt limitation. — (a) After the bond order has been introduced and before the public hearing thereon, the finance officer (or some other officer designated by the governing board for this purpose) shall file with the clerk a statement showing the following:

- (1) The gross debt of the unit, excluding therefrom debt incurred or to be incurred in anticipation of the collection of taxes or in anticipation of the sale of bonds other than funding and refunding bonds. The gross debt (after exclusions) is the sum of (i) outstanding debt evidenced by bonds or notes, (ii) bonds or notes authorized by orders or resolutions introduced but not yet adopted, (iii) unissued bonds or notes authorized by adopted orders, and (iv) outstanding debt not evidenced by bonds or notes.
- (2) The deductions to be made from gross debt in computing net debt. The following deductions are allowed:
 - a. Funding and refunding bonds authorized by orders introduced but not yet adopted.
 - b. Funding and refunding bonds authorized but not yet issued.
 - c. The amount of money held in sinking funds or otherwise for the payment of any part of the principal of gross debt other than debt incurred for water, gas, electric light or power purposes, or sanitary sewer purposes (to the extent that the bonds are deductible under subsection (b) of this section), or two or more of these purposes.
 - d. The amount of bonded debt included in gross debt and incurred, or to be incurred, for water, gas, or electric light or power purposes, or any two or more of these purposes.
 - e. The amount of bonded debt included in the gross debt and incurred, or to be incurred, for sanitary sewer system purposes to the extent that the debt is made deductible by subsection (b) of this section.
 - f. The amount of uncollected special assessments theretofore levied for local improvements for which any part of the gross debt was or is to be incurred, to the extent that the assessments will be applied, when collected, to the payment of any part of the gross debt.
 - g. The amount, as estimated by the governing board of the issuing unit or an officer designated by the board for this purpose, of special assessments to be levied for local improvements for which any part of the gross debt was or is to be incurred, to the extent that the special assessments, when collected, will be applied to the payment of any part of the gross debt.
- (3) The net debt of the issuing unit, being the difference between the gross debt and deductions.
- (4) The appraised value of property subject to taxation by the issuing unit before the application of any assessment ratio. The appraised value of property subject to taxation by the issuing unit is the value from which the assessed value last fixed for taxation by the issuing unit was computed, as revealed by the county tax records and certified to the issuing unit by the county tax supervisor.
- (5) The percentage that the net debt bears to the appraised value of property subject to taxation by the issuing unit.

(b) Debt incurred or to be incurred for sanitary sewer system purposes is deductible from gross debt when the combined revenues of the water system and the sanitary sewer system (whether or not the water and sewer system are operated separately or as a consolidated system) were sufficient to pay all operating, capital outlay, and debt service expenditures attributable to both systems in each of the three complete fiscal years immediately preceding the date on which the sworn statement of debt is filed. For the purposes of this subsection, the 'revenues' of a water system and a sanitary sewer system include:

- (1) Rates, fees, rentals, charges, and other receipts and income derived from or in connection with the system.
- (2) Fees, rents, or other charges collected from other offices, agencies, institutions, and departments of the issuing unit at rates not in excess of those charged to other consumers, customers, or users.
- (3) Appropriations from the fund balance of the prior fiscal year from the fund or funds established to account for the revenues and expenditures of the water system or sewer system pursuant to G.S. 159-13(a) of the Local Government Budget and Fiscal Control Act.

Before the sworn statement of debt is filed, the Secretary shall determine to what extent debt incurred or to be incurred for sanitary sewer system purposes qualifies for deduction from gross debt pursuant to this subsection, and shall give his certificate to that effect. The Secretary's certificate shall be filed with and deemed a part of the sworn statement of debt. The Secretary's certificate shall be conclusive in the absence of fraud.

(c) No bond order shall be adopted unless it appears from the sworn statement of debt filed in connection therewith that the net debt of the unit does not exceed eight per cent (8%) of the appraised value of property subject to taxation by the issuing unit before the application of any assessment ratio as determined under subsection (a)(4) of this section. This limitation shall not apply to:

- (1) Funding and refunding bonds.
- (2) Bonds issued for water, gas, or electric power purposes, or two or more of these purposes.
- (3) Bonds issued for sanitary sewer system purposes when the bonds are deductible pursuant to subsection (b) of this section.
- (4) Bonds issued for sanitary sewers, sewage disposal, or sewage purification plants when the construction of these facilities has been ordered by the Board of Water and Air Resources, which Board is hereby authorized to make such an order, or by a court of competent jurisdiction.
- (5) Bonds or notes issued for erosion control purposes.
- (6) Bonds or notes issued for the purpose of erecting jetties or other protective works to prevent encroachment by the ocean, sounds, or other bodies of water.

"§ 159-56. Publication of bond order as introduced. — After the introduction of the bond order, the clerk shall publish it once with the following statement appended:

"The foregoing order has been introduced and a sworn statement of debt has been filed under the Local Government Bond Act showing the appraised value of the [issuing unit] to be \$——— and the net debt thereof, including the proposed bonds, to be \$———. A tax will [may] be levied to pay the principal of and interest on the bonds if they are issued. Anyone who wishes to be heard on the questions of the validity of the bond order and the advisability of issuing the bonds may appear at a public hearing or an adjournment thereof to be held at ——

Clerk"

"§ 159-57. Hearing; passage of bond order. — On the date fixed for the public hearing, which shall be not earlier than 6 days after the date of publication of the bond order as introduced, the board shall hear anyone who may wish to be heard on the question of the validity of the order or the advisability of issuing the bonds. The hearing may be adjourned from time to time.

After the hearing, (and on the same day as the hearing, if the board so desires) the board may pass the order as introduced, or as amended. No amendment may increase the amount of bonds to be issued, nor substantially change the purpose of the issue. If the board wishes to

increase the amount of bonds to be issued, or to substantially change the purpose of the issue, a new proceeding under this Article is required.

The provisions of any city charter, general law, or local act to the contrary notwithstanding, a bond order may be introduced at any regular or special meeting of the governing board and adopted at any such meeting by a simple majority of those present and voting, a quorum being present, and need not be published or subjected to any procedural requirements governing the adoption of ordinances or resolutions by the governing board other than the procedures set out in this subchapter. Bond orders shall not be subject to the provisions of any city charter or local act concerning initiative and referendum.

"§ 159-58. Publication of bond order as adopted. — After adoption, the clerk shall publish the bond order once, with the following statement appended:

"The foregoing order was adopted on the _____ day of _____, 19____, and is hereby published this day of _____, 19__. Any action or proceeding questioning the validity of the order must be begun within 30 days after the date of publication of this notice.

Clerk'

"§ 159-59. Limitation of action to set aside order. — Any action or proceeding in any court to set aside a bond order, or to obtain any other relief, upon the ground that the order is invalid, must be begun within 30 days after the date of publication of the bond order as adopted. After the expiration of this period of limitation, no right of action or defense based upon the invalidity of the order shall be asserted, nor shall the validity of the order be open to question in any court upon any ground whatever, except in an action or proceeding begun within the period of limitation prescribed in this section.

"§ 159-60. Petition for referendum on bond issue. — A petition demanding that a bond order be submitted to the voters may be filed with the clerk within 30 days after the date of publication of the bond order as introduced. The petition shall be in writing, and shall be signed by a number of voters of the issuing unit equal to not less than 10 per cent of the total number of voters registered to vote in elections of the issuing unit according to the most recent figures certified by the State Board of Elections. The residence address of each signer shall be written after his signature. The petition need not contain the text of the order to which it refers, and need not be all on one sheet.

The clerk shall investigate the sufficiency of the petition and present it to the governing board, with a certificate stating the results of his investigation. The governing board, after hearing any taxpayer who may request to be heard, shall thereupon determine the sufficiency of the petition, and its determination shall be conclusive.

This section shall not apply to funding or refunding bonds.

"§ 159-61. Bond referenda; majority required; notice of referendum; form of ballot; canvass. — (a) If a bond order is to take effect upon approval of the voters, the affirmative vote of a majority of those who vote thereon shall be required.

(b) The date of a bond referendum shall be fixed by the governing board, but shall not be more than one year after adoption of the bond order. The governing board may call a special referendum for the purpose of voting on a bond issue on any day, including the day of any regular or special election held for another purpose (unless the law under which the bond referendum or other election is held specifically prohibits submission of other questions at the same time). A special bond referendum may not be held within 30 days before or 10 days after a primary, general election, regular municipal election, special election called by act of the General Assembly, or any other special referendum or election already validly called or scheduled by law at the time the bond referendum is called. The clerk shall mail or deliver a certified copy of the resolution calling a special bond referendum to the board of elections that is to conduct it within three days after the resolution is adopted, but failure to observe this requirement shall not in any manner affect the validity of the referendum or bonds issued

pursuant thereto. Bond referenda shall be conducted by the board of elections conducting regular elections of the county, city, or special district. In fixing the date of a bond referendum, the governing board shall consult the board of elections in order that the referendum shall not unduly interfere with other elections already scheduled or in process. Several bond orders or other matters may be voted upon at the same referendum.

(c) The clerk shall publish a notice of the referendum at least twice. The first publication shall be not less than 14 days and the second publication not less than 7 days before the last day on which voters may register for the referendum. The notice shall state the date of the referendum, the maximum amount of the proposed bonds, the purpose of the bonds, a statement that taxes will or may be levied for the payment thereof, and a statement as to the last day for registration for the referendum under the election laws then in effect.

(d) The form of the question as stated on the ballot shall be in substantially the following words:

'Shall the order authorizing \$ _____ in bonds for (briefly stating the purpose) be approved?

|| YES

|| NO'

(e) The board of elections shall canvass the referendum and certify the results to the governing board. The governing board shall then certify and declare the result of the referendum and shall publish a statement of the result once, with the following statement appended:

'Any action or proceeding challenging the regularity or validity of this bond referendum must be begun within 30 days after (date of publication).' The statement of results shall be filed in the clerk's office and inserted in the minutes of the board.

"§ 159-62. Limitation on actions contesting validity of bond referenda. — Any action or proceeding in any court to set aside a bond referendum, or to obtain any other relief, upon the ground that the referendum is invalid or was irregularly conducted, must be begun within 30 days after the publication of the statement of the results of the referendum. After the expiration of this period of limitation, no right of action or defense based upon the invalidity of or any irregularity in the referendum shall be asserted, nor shall the validity of the referendum be open to question in any court upon any ground whatever, except in an action or proceeding begun within the period of limitation prescribed in this section.

"§ 159-63. Repeal of bond orders. — A bond order may be repealed at any time before bonds or bond anticipation notes are issued thereunder. No referendum is required on the repeal of any bond order, nor is a petition for any such referendum permitted.

"§ 159-64. Within what time bonds may be issued. — Bonds may be issued under a bond order at any time within five years after the order takes effect. When the issuance of bonds under any bond order is prevented or prohibited by any order of any court, the period of time within which bonds may be issued under the bond order in litigation shall be extended by the length of time elapsing between the date of institution of the action or proceeding and the date of its final disposition. The General Assembly may at any time prior to the expiration of the maximum time period herein provided extend the time for issuing bonds under bond orders.

When any such extension is granted, no further approval of the voters shall be required.

"§ 159-65. Order fixing the details of the bonds. — After the bond order has been adopted, the board shall adopt an order fixing the details of the bonds.

In fixing details of the bonds, the board is subject to these restrictions and directions:

- (1) The maturity dates shall not exceed the maximum periods of usefulness prescribed by the Commission pursuant to G.S. 159-122.
- (2) Bonds authorized by two or more bond orders may be consolidated into a single issue.

- (3) Bonds of each issue shall mature in annual installments, the first of which shall be payable not more than three years after the date of the bonds, and the last within the maximum maturity period prescribed by regulation of the Commission under G.S. 159-122.
- (4) No installment of any issue may be more than four times as great in amount as the smallest installment of the same issue.
- (5) Bonds of each issue may be issued from time to time in series with different provisions for each series. Each series shall be deemed a separate issue for the purposes of this section.
- (6) No bonds may be made payable on demand, but any bond may be made subject to redemption prior to maturity, with or without premium, on such notice and at such time or times and with such redemption provisions as may be stated therein.

When any such bond shall have been validly called for redemption and provision shall have been made for the payment of the principal thereof, any redemption premium, and the interest thereon accrued to the date of redemption, interest thereon shall cease.

(7) The bonds may bear interest at such rate or rates, payable semi-annually or otherwise, may be in such denominations, and may be made payable in such kind of money and in such place or places within or without the State of North Carolina, as the board may determine.

Paragraphs (3) and (4) of this section shall not apply to bonds purchased by a State or federal agency.

"Part 3.

"Funding and Refunding Bonds.

"§ 159-72. Purposes for which funding and refunding bonds may be issued; debt defined.

— Any unit of local government may issue funding or refunding bonds to pay or refinance any valid outstanding debt of the issuing unit when the debt is payable at the time of the passage of the bond order or within one year thereafter, or when the debt is to be cancelled prior to its maturity and simultaneously with the issuance of the funding or refunding bonds. As used in this part, "debt" means all valid and enforceable debts of the issuing unit without regard to the purpose for which they were incurred, including but not limited to debts evidenced by bonds, bond anticipation notes, or tax anticipation notes; judgments; unpaid interest; and the principal and interest of funding or refunding bonds.

Except as expressly modified in this part, funding and refunding bonds shall be issued under the limitations and procedures set out in parts 1 and 2 of this Article.

"§ 159-73. Financing or refinancing agreements. — Each unit of local government is authorized to enter into agreements with the holders of its outstanding debts for the settlement, adjustment, funding, refunding, financing, or refinancing of the debt. Such an agreement may contain any provisions not inconsistent with law and before the unit may enter into it, it must be approved by the Commission.

"§ 159-74. Test cases testing validity of funding or refunding bonds. — At any time after the procedure for authorizing the issuance of funding or refunding bonds has been completed, but before the issuance of the bonds, the issuing unit may institute an action in the Superior Court Division of the General Court of Justice in the county in which all or any part of the unit lies, to determine the validity of the bonds and the validity of the means of payment provided therefor. The action shall be in rem, and shall be against all of the owners of taxable property within the unit and all citizens residing in the unit, but it shall not be necessary to name each such owner or citizen in the summons or complaint. Jurisdiction of all parties defendant shall be acquired by publication of a summons once a week for three successive weeks, and jurisdiction shall be complete within 20 days after the date of the last publication. Any

interested party may intervene in the action. Except as otherwise provided by this section, the action shall be governed by the Rules of Civil Procedure.

"§ 159-75. **Judgment validating issue; costs of the action.** — A final decree of the General Court of Justice validating funding or refunding bonds or the financing or refinancing agreement shall be conclusive as to the validity of the bonds or the agreement.

The costs of any action brought under G.S. 159-76 shall be borne by the issuing unit, including a reasonable attorney's fee for the attorney assigned by the court to defend the interests of the citizens and taxpayers in general.

"§ 159-76. **Validation of bonds and notes issued before March 26, 1931.** — All bonds and notes issued before March 26, 1931, for which the issuing unit received an amount of money not less than the face amount of the bonds or notes and the proceeds of which have been spent for public purposes, and all bonds and notes subsequently issued to refund all or any portion of those bonds, are hereby validated notwithstanding any lack of statutory authority or failure to observe any statutory provisions concerning the issuance of the bonds or notes. This section shall not validate any bonds or notes, the proceeds of which have been lost because of the failure of a bank.

"Article 5.

"Revenue Bonds.

"§ 159-80. **Short title.** — This Article may be cited as 'The Local Government Revenue Bond Act.'

"§ 159-81. **Definitions.** — The words and phrases defined in this section shall have the meanings indicated when used in this Article:

- (1) 'Revenue bond' means a bond issued by a municipality pursuant to this Article.
- (2) 'Revenues' include all monies received by a municipality from, in connection with, or as a result of its ownership or operation of a revenue bond project or a utility or public service enterprise facility or system of which a revenue bond project is a part, including (to the extent deemed advisable by the municipality) monies received from the United States of America, the State of North Carolina, or any agency of either, pursuant to an agreement with the municipality pertaining to the project.
- (3) 'Revenue bond project' means any undertaking for the acquisition, construction, reconstruction, improvement, enlargement, betterment, or extension of any one or combination of the following revenue-producing utility or public service enterprise facilities or systems owned or leased as lessee by the issuing unit:
 - a. Water systems or facilities, including all plants, works, instrumentalities and properties used or useful in obtaining, conserving, treating, and distributing water for domestic or industrial use, irrigation, sanitation, fire protection, or any other public or private use.
 - b. Sewage disposal systems or facilities, including all plants, works, instrumentalities, and properties used or useful in the collection, treatment, purification, or disposal of sewage.
 - c. Systems or facilities for the generation, production, transmission, or distribution of gas (natural, artificial, or mixed) or electric energy for lighting, heating, or power for public and private uses.
 - d. Systems, facilities and equipment for the treatment or disposal of solid waste.

- e. Public transportation systems, facilities, or equipment, including but not limited to bus, truck, ferry, and railroad terminals, depots, trackages, vehicles, and ferries, and mass transit systems.
- f. Public parking lots, areas, garages, and other vehicular parking structures and facilities.
- g. Aeronautical facilities, including but not limited to airports, terminals, and hangers.
- h. Marine facilities, including but not limited to marinas, basins, docks, dry docks, piers, marine railways, wharves, harbors, warehouses, and terminals, i. Hospitals and other health-related facilities.
- j. Public auditoriums, gymnasiums, stadiums, and convention centers,
- k. Recreational facilities.

The cost of an undertaking may include all property, both real and personal and improved and unimproved, plants, works, appurtenances, machinery, equipment, easements, water rights, air rights, franchises, and licenses used or useful in connection with any of the foregoing utilities and enterprises; the cost of demolishing or moving structures from land acquired and the cost of acquiring any lands to which such structures are to be moved; financing charges; the cost of plans, specifications, surveys, and estimates of cost and revenues; administrative and legal expenses; and any other expense necessary or incident to the project.

- (4) 'Municipality' means a county, city, town, incorporated village, sanitary district, metropolitan sewage district, water and sewer authority, hospital authority, hospital district, parking authority, and airport authority but not any other form of local government.

"§ 159-82. Purpose. — The purpose of this Article is to establish a standard, uniform procedure for the financing by a municipality of revenue bond projects through the issuance of revenue bonds. Its provisions are intended to vest authority in and enable municipalities to secure and pay revenue bonds and the interest thereon solely out of revenues without creating a debt or pledging the faith and credit of the municipality.

"§ 159-83. Powers. — (a) In addition to the powers it may now or hereafter have, each municipality shall have the following powers, subject to the provisions of this Article and of any revenue bond order or trust agreement securing revenue bonds:

- (1) To acquire by gift, purchase, or exercise of the power of eminent domain, or to acquire, construct, reconstruct, extend, improve, maintain, better, extend, and operate, one or more revenue bond projects or any portion thereof without regard to location within or without its boundaries, upon determination by resolution of the governing board that a location wholly or partially outside its boundaries is necessary and in the public interest.
- (2) To sell, exchange, transfer, assign, or otherwise dispose of any revenue bond project or portion thereof or interest therein determined by resolution of the governing board not to be required for any public purpose.
- (3) To sell, furnish, and distribute the services, facilities, or commodities of revenue bond projects.
- (4) To enter into contracts with any person, firm, or corporation, public or private, on such terms as the governing board may determine, with respect to the acquisition, construction, reconstruction, extension, betterment, improvement, maintenance, or operation of revenue bond projects, or the sale, furnishing, or distribution of the services, facilities, or commodities thereof.
- (5) To borrow money for the purpose of acquiring, constructing, reconstructing, extending, bettering, improving, or otherwise paying the cost of revenue bond projects, and to issue its revenue bonds or bond anticipation notes

- therefor in the name of the municipality, but no encumbrance, mortgage, or other pledge of real property of the municipality may be created in any manner.
- (6) To establish, maintain, revise, charge, and collect such rates, fees, rentals, tolls, or other charges, free of any control or regulation by the North Carolina Utilities Commission or any other regulatory body except as provided in G.S. 159-95 for the use, services, facilities, and commodities of or furnished by any revenue bond project, and to provide methods of collection of and penalties for non-payment of such rates, fees, rentals, tolls, or other charges. The rates, fees, rentals, tolls, and charges so fixed and charged shall be such as will produce revenues at least sufficient with any other available funds to meet the expense of maintenance and operation of and renewals and replacements to the revenue bond project, including reserves therefor, to pay when due the principal, interest, and redemption premiums (if any) on all revenue bonds secured thereby, and to fulfill the terms of any agreements made by the issuing unit with the holders of revenue bonds issued to finance all or any portion of the cost of the project.
 - (7) To pledge all or part of any proceeds derived from the use of on-street parking meters to the payment of the cost of operating, maintaining, and improving parking facilities whether on-street or off-street, and the principal of and the interest on revenue bonds issued for on-street or off-street parking facilities.
 - (8) To pledge to the payment of its revenue bonds and interest thereon revenues from one or more revenue bond projects and any leases or agreements to secure such payment, including revenues from improvements, betterments, or extensions to such projects thereafter constructed or acquired as well as the revenues from existing systems, plants, works, instrumentalities, and properties of the projects to be improved, bettered, or extended.
 - (9) To appropriate, apply, or expend for the following purposes the proceeds of its revenue bonds, notes issued in anticipation thereof, and revenues pledged under any resolution or order authorizing or securing the bonds: (i) to pay interest on the bonds or notes and the principal or redemption price thereof when due; (ii) to meet reserves and other requirements set forth in the bond order or trust agreement; (iii) to pay the cost of acquisition, construction, reconstruction, extension, or improvement of the revenue bond projects authorized in the bond order and to provide working capital for initial maintenance and operation until funds are available from revenues; (iv) to pay and discharge revenue bonds and notes issued in anticipation thereof; (v) to pay and discharge general obligation bonds issued under Article 4 of this chapter, when the revenues of the project financed in whole or in part by the general obligation bonds will be pledged to the payment of the revenue bonds or notes.
 - (10) To make and enforce rules and regulations governing the use, maintenance, and operation of revenue bond projects.
 - (11) To accept gifts or grants of real or personal property, money, material, labor, or supplies for the acquisition, construction, reconstruction, extension, improvement, betterment, maintenance, or operation of any revenue bond project and to make and perform such agreements or contracts as may be necessary or convenient in connection with the procuring or acceptance of such gifts or grants.

- (12) To accept loans, grants, or contributions from, and to entered into contracts and cooperate with the United States of America, the State of North Carolina, or any agency thereof, with respect to any revenue bond project.
- (13) To enter on any lands, waters, and premises for the purpose of making surveys, borings, soundings, examinations, and other preliminary studies for constructing and operating any revenue bond project.
- (14) To retain and employ consultants and other persons on a contract basis for rendering professional, financial, or technical assistance and advice.
- (15) Subject to any provisions of law requiring voter approval for the sale or lease of utility or enterprise systems, to lease to or from any person, firm, or corporation, public or private, all or part of any revenue bond project, upon such terms and conditions and for such term of years, not in excess of 40 years, as the governing board may deem advisable to carry out the provisions of this Article, and to provide in such lease for the extension or renewal thereof and, if deemed advisable, for an option to purchase or otherwise lawfully acquire the project upon terms and conditions therein specified.
- (16) To execute such instruments and agreements and to do all things necessary or convenient in the exercise of the powers herein granted, or in the performance of the covenants or duties of the municipality, or to secure the payment of its revenue bonds.

(b) Any contract, agreement, lease, deed, covenant, or other instrument or document evidencing an agreement or covenant between bondholders or any public agency and a municipality issuing revenue bonds with respect to any of the powers conferred in this section shall be approved by the Commission.

"§ 159-84. Authorization of revenue bonds. — Each municipality is hereby authorized to issue its revenue bonds in such principal amount as may be necessary to provide sufficient monies for the acquisition, construction, reconstruction, extension, betterment, improvement, or payment of the cost of one or more revenue bond projects, including engineering, inspection, legal, and financial fees and costs, working capital, interest on the bonds or notes issued in anticipation thereof during construction and, if deemed advisable by the municipality, for a period not exceeding two years after the estimated date of completion of construction, establishment of debt service reserves, and all other expenditures of the municipality incidental and necessary or convenient thereto.

Subject to agreements with the holders of its revenue bonds, each municipality may issue further revenue bonds and refund outstanding revenue bonds whether or not they have matured. Revenue bonds may be issued partly for the purpose of refunding outstanding revenue bonds and partly for any other purpose under this Article. Revenue bonds issued to refund outstanding revenue bonds shall be issued under this Article and not Article 4 of this chapter.

"§ 159-85. Application to Commission for approval of revenue bond issue; preliminary conference; acceptance of application. — A municipality may not issue revenue bonds under this Article unless the issue is approved by the Local Government Commission. The governing board of the issuing unit, or its duly authorized agent, shall file an application for Commission approval of the issue with the Secretary of the Commission. The application shall state such facts and have attached to it such documents concerning the proposed revenue bonds and the financial condition of the issuing unit and its utilities and enterprises as the Secretary may require. The Commission may prescribe the form of the application.

Before he accepts the application, the Secretary may require the governing board or its representatives to attend a preliminary conference at which time the Secretary and his deputies may informally discuss the proposed issue and the timing of the steps to be taken in issuing the bonds.

After an application in proper form and order has been filed, and after a preliminary conference if one is required, the Secretary shall notify the unit in writing that the application has been filed and accepted for submission to the Commission. The Secretary's statement shall be conclusive evidence that the unit has complied with this section.

"§ 159-86. Approval of application by Commission. — (a) In determining whether a proposed revenue bond issue shall be approved, the Commission may consider:

- (1) Whether the project to be financed from the proceeds of the revenue bond issue is necessary or expedient.
- (2) Whether the proposed project is feasible.
- (3) The unit's debt management procedures and policies.
- (4) Whether the unit is in default in any of its debt service obligations.
- (5) Whether the probable net revenues of the project to be financed will be sufficient to service the proposed revenue bonds.
- (6) The ability of the Commission to market the proposed revenue bonds at reasonable rates of interest.

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

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

- (1) That the proposed revenue bond issue is necessary or expedient.
- (2) That the amount proposed is adequate and not excessive for the proposed purpose of the issue.
- (3) That the proposed project is feasible.
- (4) That the unit's debt management procedures and policies are good, or that reasonable assurances have been given that its debt will henceforth be managed in strict compliance with law.
- (5) That the proposed revenue bonds can be marketed at reasonable interest cost to the issuing unit.

"§ 159-87. Order approving or denying the application. — (a) After considering an application the Commission shall enter its order either approving or denying the application. An order approving an issue shall not be regarded as an approval of the legality of the bonds in any respect.

(b) If the Commission enters an order denying the application, the proceedings under this Article shall be at an end.

"§ 159-88. Adoption of revenue bond order. — At any time after the Commission approves an application for the issuance of revenue bonds, the governing board of the issuing unit may adopt a revenue bond order pursuant to this Article.

"§ 159-89. Special covenants. — A revenue bond order or a trust agreement securing revenue bonds may contain covenants as to

- (1) The pledge of all or any part of revenues received or to be received from the undertaking to be financed by the bonds, or the utility or enterprise of which the undertaking is to become a part.
- (2) Rates, fees, rentals, tolls or other charges to be established, maintained, and collected, and the use and disposal of revenues, gifts, grants, and funds received or to be received.
- (3) The setting aside of debt service reserves and the regulation and disposition thereof.
- (4) The custody, collection, securing, investment, and payment of any monies held for the payment of revenue bonds.
- (5) Limitations or restrictions on the purposes to which the proceeds of sale of revenue bonds then or thereafter to be issued may be applied.

- (6) Limitations or restrictions on the issuance of additional revenue bonds or notes; the terms upon which additional revenue bonds or notes may be issued and secured; or the refunding of outstanding or other revenue bonds.
- (7) The procedure, if any, by which the terms of any contract with bondholders may be amended or abrogated, the percentage of revenue bonds the bondholders of which must consent thereto, and the manner in which such consent may be given.
- (8) Events of default and the rights and liabilities arising thereupon, the terms and conditions upon which revenue bonds issued under this Article shall become or may be declared due before maturity, and the terms and conditions upon which such declaration and its consequences may be waived.
- (9) The preparation and maintenance of a budget with respect to the expenses of the municipality for the operation and maintenance of revenue bond projects.
- (10) The retention or employment of consulting engineers, independent auditors, and other technical consultants in connection with revenue bond projects.
- (11) Limitations on or the prohibition of free service by revenue bond projects to any person, firm, or corporation, public or private.
- (12) The acquisition and disposal of property for revenue bond projects.
- (13) Provisions for insurance and for accounting reports and the inspection and audit thereof.
- (14) The continuing operation and maintenance of the revenue bond project or the utility or enterprise of which it is to become a part.

"§ 159-90. Limitations on details of bonds. — In fixing the details of revenue bonds, the issuing municipality shall be subject to the following restrictions and directions:

- (1) The maturity dates may not exceed the maximum maturity periods prescribed by the Commission for general obligation bonds pursuant to G.S. 159-122.
- (2) No bonds may be made payable on demand, but any bond may be made subject to redemption prior to maturity, with or without premium, on such notice and at such time or times and with such redemption provisions as may be stated. When any such bond shall have been validly called for redemption and provision shall have been made for the payment of the principal thereof, any redemption premium, and the interest thereon accrued to the date of redemption, interest thereon shall cease.
- (3) The bonds may bear interest at such rate or rates, payable semi-annually or otherwise, may be in such denominations, and may be payable in such kind of money and in such place or places within or without the State of North Carolina, as the issuing municipality may determine.

"§ 159-91. Lien of revenue bonds. — All revenue bonds issued under this Article shall be equally and ratably secured by a pledge, charge, and lien upon revenues provided for in the bond order, without priority by reason of number, or of dates of bonds, execution, or delivery, in accordance with the provisions of this Article and of the bond order; except that a municipality may provide in a revenue bond order that revenue bonds issued pursuant thereto shall to the extent and in the manner prescribed in the order or agreement be subordinated and junior in standing, with respect to the payment of principal and interest and the security thereof, to any other revenue bonds.

Any pledge made by a municipality pursuant to this Article shall be valid and binding from the date of final passage of the bond order upon the issuance of any bonds or bond anticipation notes thereunder. The revenues, securities, and other monies so pledged and then held or thereafter received by the municipality or any fiduciary shall immediately be subject to the lien

of the pledge without any physical delivery thereof or further act, and the lien of the pledge shall be valid and binding as against all parties having claims of any kind in tort, contract, or otherwise against the municipality without regard to whether such parties have notice thereof. The bond order by which a pledge is created need not be filed or recorded in any manner other than as provided in this subchapter.

"§ 159-92. Status of revenue bonds under Uniform Commercial Code. — Whether or not the revenue bonds and interest coupons appertaining thereto are of such form and character as to be investment securities under Article 8 of the Uniform Commercial Code as enacted in this State, all revenue bonds and interest coupons appertaining thereto issued under this Article are hereby made investment securities within the meaning of and for all the purposes of Article 8 of the Uniform Commercial Code as enacted in this State, subject only to the provisions of the bonds pertaining to registration.

"§ 159-93. Agreement of the State. — The State of North Carolina does pledge to and agree with the holders of any revenue bonds heretofore or hereafter issued by any municipality in this State that so long as any of such bonds are outstanding and unpaid the State will not limit or alter the rights vested in the municipality at the time of issuance of the bonds to establish, maintain, revise, charge, and collect such rates, fees, rentals, tolls, and other charges for the use, services, facilities, and commodities of or furnished by the revenue bond project in connection with which the bonds, or bonds refunded by the bonds, were issued as shall produce revenues at least sufficient with other available funds to meet the expense of maintenance and operation of and renewals and replacements to such project, including reserves therefor, to pay when due the principal, interest, and redemption premiums (if any) of the bonds, and to fulfill the terms of any agreements made with the bondholders, nor will the State in any way impair the rights and remedies of the bondholders, until the bonds and all costs and expenses in connection with any action or proceedings by or on behalf of the bondholders, are fully paid, met, and discharged.

"§ 159-94. Limited liability of municipality. — Revenue bonds shall be special obligations of the municipality issuing them. The principal of and interest on revenue bonds shall not be payable from the general funds of the municipality, nor shall they constitute a legal or equitable pledge, charge, lien, or encumbrance upon any of its property or upon any of its income, receipts, or revenues, except the funds which are pledged under the bond order authorizing the bonds. Neither the credit nor the taxing power of the municipality are pledged for the payment of the principal or interest of revenue bonds, and no holder of revenue bonds has the right to compel the exercise of the taxing power by the municipality or the forfeiture of any of its property in connection with any default thereon. Every revenue bond shall recite in substance that the principal of and interest on the bond is payable solely from the revenues pledged to its payment and that the municipality is not obligated to pay the principal or interest except from such revenues.

"§ 159-95. Approval of State agencies required in certain instances. — The general design and plan of any revenue bond project undertaken for water systems or facilities or sewage disposal systems or facilities shall be subject to the approval of the State Board of Health or the State Board of Water and Air Resources to the same extent that such projects would be if they were not financed by revenue bonds, and the provisions of the revenue bond order shall be consistent with any requirements imposed on the project by the State Board of Health, or the State Board of Water and Air Resources. No revenue bond project for the acquisition or construction of systems or facilities for the generation, production, or transmission of gas or electric power may be undertaken by a municipality unless the municipality shall first obtain a certificate of convenience and necessity from the North Carolina Utilities Commission, shall be owned or operated by the municipality for its own use and for the use of public and private consumers residing within its corporate limits. A utility or public service enterprise financed wholly or partially by revenue bonds, when operated primarily for the municipality's own use

and for users within its corporate limits, may be operated incidentally for users outside its corporate limits.

"§ 159-96. Limitation on extraterritorial operation of enterprises financed by revenue bonds. — Each utility or public service enterprise listed in G.S. 159-81(3), if financed wholly or partially by revenue bonds issued under this Article, shall be owned or operated by the municipality for its own use and for the use of public and private consumers residing within its corporate limits. A utility or public service enterprise financed wholly or partially by revenue bonds, when operated primarily for the municipality's own use and for users within its corporate limits, may be operated incidentally for users outside its corporate limits."

"Article 7.

"Issuance and Sale of Bonds.

"§ 159-121. Coupon or registered bonds to be issued. — Bonds may be issued as (i) coupon bonds payable to bearer, (ii) coupon bonds registered as to principal only, or (iii) bonds registered as to both principal and interest, in the discretion of the issuing unit. Registered bonds may be transferred by the registered owner in person or by attorney, upon presentation to the bond registrar of the bond to be transferred together with a written instrument of transfer in a form approved by the bond registrar. Registered bonds may be discharged from registry by a registered transfer to bearer. The bond registrar shall note each transfer on the back of the bond and in the bond register. Each issuing unit is authorized to appoint or designate a bond registrar who shall be charged with the duty of attending to the registration and transfer of bonds.

"§ 159-122. Maturities of bonds. — (a) Except for funding and refunding bonds, the last installment of each bond issue shall mature not later than the date of expiration of the period of usefulness of the capital project to be financed by the bond issue, computed from the date of the bonds. The last installment of a funding or refunding bond issue shall mature not later than either (i) the shortest period, but not more than forty years, in which the debt to be funded or refunded can be finally paid without making it unduly burdensome on the taxpayers of the issuing unit, as determined by the Commission, or (ii) the end of the unexpired period of usefulness of the capital project financed by the debt to be funded or refunded.

(b) The Commission shall by regulation establish the maximum period of usefulness of the capital projects for which units of local government may issue bonds, but no capital project may be assigned a period of usefulness in excess of forty years.

(c) The determination of the Commission as to the classification of the capital projects for which a particular bond issue is authorized, and the Commission's determination of the maximum period of usefulness of the project, as evidenced by the Secretary's certificate, shall be conclusive in any action or proceeding involving the validity of the bonds.

"§ 159-123. Sale of bonds by sealed bids; private sales. — (a) Bonds issued by units of local government shall be sold by the Local Government Commission after advertisement and upon sealed bids, except as otherwise authorized by subsection (b) of this section.

(b) The following classes of bonds may be sold at private sale:

- (1) Bonds that a State or federal agency has previously agreed to purchase.
- (2) Any bonds for which no legal bid is received within the time allowed for submission of bids.
- (3) Revenue bonds.

(c) When the issuing unit wishes to have a private sale of bonds, the governing board shall adopt and file with the Commission a resolution requesting that the bonds be sold at private sale without advertisement to any purchaser or purchasers thereof, at such prices as the Commission determines to be in the best interest of the issuing unit, subject to the approval of the governing board of the issuing unit. Upon receipt of a resolution requesting private sale of bonds, the Commission may offer them to any purchaser or purchasers without advertisement, and may sell them at any price the Commission deems in the best interest of the issuing unit, subject to the approval of the governing board of the issuing unit.

(d) This section shall not apply to funding or refunding bonds when the governing board of the issuing unit and the holders of the debt to be funded or refunded have agreed to exchange the original obligations for new ones at the same or an adjusted rate of interest.

"§ 159-124. Date of sale; notice of sale and blank proposal. — The date of sale shall be fixed by the Secretary in consultation with the issuing unit. Prior to the sale date, the Secretary shall take such steps as are most likely, in his opinion, to give notice of the sale to all potential bidders, taking into consideration the size and nature of the issue. Notice must include at least one publication in a recognized financial journal or local newspaper not less than five days before the sale date.

The Secretary shall maintain a mailing list for notices of sale and blank proposals, and shall place thereon any person, firm, or corporation so requesting. Failure to send copies of notices and blank proposals to persons, firms, or corporations on the mailing list shall in no way affect the legality of the bonds.

The Secretary shall prepare a notice of sale and blank proposal for bids for each bond issue required to be sold by sealed bids. The notice and blank proposal may be combined with such fiscal information as the Secretary deems appropriate, and shall contain:

- (1) A statement that the bonds are to be sold upon sealed bids without auction.
- (2) The aggregate principal amount of the issue.
- (3) The time and place of sale, the time within which bids must be received, the place to which bids must be delivered, and the time and place at which bids will be opened.
- (4) Instructions for entering bids.
- (5) Instructions as to the amount of bid deposit required, the form in which it is to be made, and the effect of failure of the bidder to comply with the terms of his bid.

"§ 159-125. Bid instructions; bid deposit. — (a) Except for revenue bonds, no bid for less than the face value of the bonds plus accrued interest may be entertained.

Different rates of interest may be bid for bonds maturing in different years, but different rates of interest may not be bid for bonds maturing in the same year.

(b) Each bid shall be accompanied by a bid deposit equal to two per cent (2%) of the aggregate principal amount of the bond issue. The bid deposit shall be made in a form approved by the Commission, and shall secure the issuing unit against loss resulting from the bidder's failure to comply with the terms of his bid. This subsection shall not apply to bids entered by a State or federal agency.

(c) When a State or federal agency has agreed to purchase the bonds at a stated rate of interest unless more favorable bids are received, bids may be entertained from other purchasers for less than all of the bonds.

"§ 159-126. Rejection of bids. — No legal bid may be rejected unless all bids are rejected. All bids shall be rejected upon objection to award by an authorized representative of the issuing unit. If bids have been rejected, another notice of sale shall be given and further bids invited.

"§ 159-127. Award of bonds. — All bids received pursuant to a public sale shall be opened in public on a date and at a time and place to be specified in the notice of sale. The bonds shall be awarded to the bidder offering to purchase the bonds at the lowest interest cost to the issuing unit. In calculating such interest cost, the amount of any premium bid shall be deducted from the aggregate amount of interest on the entire issue until maturity.

"§ 159-128. Makeup and formal execution of bonds; temporary bonds. — The governing board of the issuing unit shall determine the form and manner of execution of the bonds, including any interest coupons to be attached thereto. The board may also provide for the authentication of the bonds by a trustee or fiscal agent. The board may authorize the use of facsimile signatures and seals on the bonds and coupons, if any, but at least one manual signature must appear on each bond (which may be the signature of the representative of the

Commission to the Commission's certificate). Delivery of bonds executed in accordance with the board's determination shall be valid notwithstanding any change in officers or in the seal of the issuing unit occurring after the original execution of the bonds.

Before definitive bonds are prepared, the unit may issue interim receipts or temporary bonds, with or without coupons, exchangeable for definitive bonds when they have been executed and are available for delivery.

"§ 159-129. Obligations of units certified by Commission. — Each bond shall bear on its face or reverse a certificate signed by the Secretary of the Commission or an assistant designated by him that the issuance of the bond has been approved under the provisions of the Local Government Bond Act, or the Local Government Revenue Bond Act. The certificate shall be conclusive evidence that the requirements of this subchapter have been observed, and no bond without the Commission's certificate shall be valid.

"§ 159-130. Record of issues kept. — The Secretary shall make a record of all bonds issued under this subchapter, showing the name of the issuing unit, the amount, date, the time fixed for payment of principal and interest, the rate of interest, the place at which the principal and interest will be payable, the denominations, the purpose of issuance, the name of the board in which is vested the authority and power to levy taxes or raise other revenues for the payment of the principal and interest thereof, and a reference to the law under which the bonds were issued. The clerk of the issuing unit shall file with the Secretary copies of all proceedings of the board in authorizing the bonds, his certificate that they are correctly recorded in a bound book of the minutes and proceedings of the board, and a notation of the pages or other identification of the exact portion of the book in which the records appear.

"§ 159-131. Contract for services to be approved by Commission. — Any contract or agreement made by any unit with any person, firm, or corporation for services to be rendered in drafting forms of proceedings for a proposed bond issue shall be void unless approved by the Commission. Before giving its certificate to bonds, the Commission shall satisfy itself, by such evidence as it may deem sufficient, that no unapproved contract is in effect. This section shall not apply to contracts and agreements with attorneys at law licensed to practice before the courts of the State within which they have their residence or regular place of business so long as the contracts or agreements involve only legal services.

"§ 159-132. State Treasurer to deliver bonds and remit proceeds. — When the bonds are executed, they shall be delivered to the State Treasurer who shall deliver them to the order of the purchaser and collect the purchase price or proceeds. The Treasurer shall then pay from the proceeds any notes issued in anticipation of the sale of the bonds, deduct from the proceeds the Commission's expense in connection with the issue, and remit the net proceeds to the official depository of the unit after assurance that the deposit will be adequately secured as required by law. The proceeds of funding or refunding bonds may be deposited at the place of payment of the indebtedness to be refunded or funded for use solely in the payment of such indebtedness. The proceeds of revenue bonds shall be remitted to the trustee or other depository specified in the trust agreement or resolution securing them.

"§ 159-133. Suit to enforce contract of sale. — The Commission may enforce in any court of competent jurisdiction any contract or agreement made by the Commission for the sale of any bonds of a unit.

"§ 159-134. Fiscal agents. — An issuing unit may employ a bank or trust company either within or without this State as fiscal agent for the payment of installments of principal and interest on the bonds, and for the destruction of paid or cancelled bonds and coupons, and may pay reasonable fees for this service not in excess of maximum rates to be fixed by regulation of the Commission.

"§ 159-135. Application of proceeds. — After payment of the cost of preparing] marketing, and issuing the bonds, the proceeds of the sale of a bond issue shall be applied only to the purposes for which the issue was authorized and to pay any notes issued in anticipation of the

sale of the bonds. Any excess amount which for any reason is not needed for any such purpose shall be applied either (i) toward the purchase and retirement of bonds of that issue at not more than their face value and accrued interest, or (ii) toward payment of the earliest maturing installments of that issue, or (iii) in accordance with any trust agreement or resolution securing the bonds.

"§ 159-136. Issuing unit to make and report debt service payments. — The finance officer of each unit having outstanding bonds or notes shall remit the funds necessary for the payment of maturing installments of principal and interest on the bonds or notes to the fiscal agent or agreed upon place of payment in sufficient time for the payment thereof, together with the agreed upon fiscal agency fees, and shall at the same time report the payment to the Secretary on forms to be provided by the Commission.

"§ 159-137. Lost, stolen, defaced, or destroyed bonds or notes. — (a) If lost, stolen, or completely destroyed, any bond, note, or coupon may be reissued in the same form and tenor upon the owner's furnishing to the satisfaction of the Secretary and the issuing unit: (i) proof of ownership, (ii) proof of loss or destruction, (iii) a surety bond in twice the face amount of the bond or note and coupons, and (iv) payment of the cost of preparing and issuing the new bond, note, or coupons.

(b) If defaced or partially destroyed, any bond, note, or coupon may be reissued in the same form and tenor to the bearer or registered holder, at his expense, upon surrender of the defaced or partially destroyed bond, note, or coupon and on such other conditions as the Commission may prescribe. The Commission may also provide for authentication of defaced or partially destroyed bonds, notes, or coupons instead of reissuing them.

(c) Each new bond, note, or coupon issued under this section shall be signed by the officers of the issuing unit who are in office at the time, or by the State Treasurer if the unit no longer exists, and shall contain a recital to the effect that it is issued in exchange for or replacement of a certain bond, note, or coupon (describing it sufficiently to identify it) and is to be deemed a part of the same issue as the original bond, note, or coupon.

"§ 159-138. Cancellation of bonds and notes. — Each bond or note and coupon shall be cancelled when (i) it is paid, or (ii) it is acquired by the issuing unit in any manner other than purchase for investment. A full report of the cancellation of all bonds, notes, and coupons shall be made to the Secretary on forms provided by the Commission.

"§ 159-139. Destruction of cancelled bonds, notes, and coupons. — All cancelled bonds, notes, and interest coupons of a unit may be destroyed in one of the following ways, in the discretion of the governing board:

- (1) Method 1. The finance officer shall make an entry in a substantially bound book kept by him for the purpose of recording the destruction of bonds, notes, and coupons, showing
 - a. With respect to bonds and notes, the purpose of issuance, the date of issue, serial numbers (if any), denomination, maturity date, and total principal amount.
 - b. With respect to coupons, the purpose of issue and date of the bonds to which the coupons appertain, the maturity date of the coupons and, as to each maturity date, the denomination, quantity, and total amount of coupons.

After this entry has been made, the paid bonds, notes, and coupons shall be destroyed by either burning or shredding, in the presence of the mayor or chairman of the governing board, the finance officer, the unit's attorney, and the clerk to the governing board, or any three of them, each of whom shall certify under his hand in the book kept by the finance officer that he saw the bonds and coupons destroyed. Cancelled bonds, notes, or coupons shall not be destroyed until after one year from date of maturity.

- (2) Method 2. The governing board may contract with the bank or trust company acting as fiscal agent for a bond issue for the destruction of bonds and interest coupons which have been cancelled by the fiscal agent. The contract shall require that the fiscal agent give the unit a written certificate of each destruction containing the same information required by Method 1 to be entered in the record of destroyed bonds and coupons. The certificates shall be filed among the permanent records of the finance officer's office. Bonds or coupons shall not be destroyed until one year after date of maturity.

The provisions of G.S. 121-5 and 132-3 shall not apply to paid bonds, notes, and coupons.

"Article 8.

"Financing Agreements.

"§ 159-148. Contracts subject to Article; exceptions — (a) Except as provided in subsection (b) of this section, this Article applies to any contract, agreement, memorandum of understanding, and any other transactions having the force and effect of a contract (other than agreements made in connection with the issuance of revenue bonds), made or entered into by a unit of local government in this State, relating to the lease, acquisition, or construction of capital assets, which contract

- (1) extends for five or more years from the date of the contract, including periods that may be added to the original term through the exercise of options to renew or extend, and
- (2) obligates the unit to pay sums of money to another, without regard to whether the payee is a party to the contract, and
- (3) obligates the unit over the full term of the contract, including periods that may be added to the original term through the exercise of options to renew or extend, to the extent of \$500,000 or a sum equal to one-tenth of one per cent (1/10 of 1%) of the appraised value of property subject to taxation by the contracting unit (before the application of any assessment ratio), whichever is less, and
- (4) obligates the unit, expressly or by implication, to exercise its power to levy taxes either to make payments falling due under the contract, or to pay any judgment entered against the unit as a result of the unit's breach of the contract.

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

(b) This Article shall not apply to:

- (1) Contracts between a unit of local government and the State of North Carolina or the United States of America (or any agency of either) entered into as a condition to the making of grants or loans to the unit of local government.
- (2) Contracts for the purchase, lease, or lease with option to purchase of motor vehicles or voting machines.

"§ 159-149. Application to Local Government Commission for approval of contract. — A unit of local government may not enter into any contract subject to this Article unless it is approved by the Local Government Commission as evidenced by the Secretary's certificate thereon. Any contract subject to this Article that does not bear the Secretary's certificate thereon shall be void, and it shall be unlawful for any officer, employee, or agent of a unit of local government to make any payments of money thereunder. Before executing a contract

subject to this Article, the governing board of the contracting unit shall file an application for Commission approval of the contract with the Secretary of the Commission. The application shall state such facts and have attached to it such documents concerning the proposed contract and the financial condition of the contracting unit as the Secretary may require. The Commission may prescribe the form of the application.

Before he accepts the application, the Secretary may require the governing board or its representatives to attend a preliminary conference at which time the Secretary and his deputies may informally discuss the proposed contract.

After an application in proper form and order has been filed, and after a preliminary conference if one is required, the Secretary shall notify the unit in writing that the application has been filed and accepted for submission to the Commission. The Secretary's statement shall be conclusive evidence that the unit has complied with this section.

"§159-150. Sworn statement of debt; debt limitation. — After or at the time an application is filed under G.S. 159-149, the finance officer, or some other officer designated by the board, shall prepare, swear to, and file with the Secretary and for public inspection in the office of the clerk to the board a statement of debt in the same form prescribed in G.S. 159-55 for statements of debt filed in connection with general obligation bond issues. The sums to be included in gross debt and the deductions therefrom to arrive at net debt shall be the same as prescribed in G.S. 159-55, except that sums to fall due under contracts subject to this Article shall be treated as if they were evidenced by general obligation bonds of the unit.

No contract subject to this Article may be executed if the net debt of the contracting unit, after execution of the contract, would exceed eight per cent (8%) of the appraised value of property subject to taxation by the contracting unit before the application of any assessment ratio.

"§ 159-151. Approval of application by Commission. — (a) In determining whether a proposed contract shall be approved, the Commission may consider:

- (1) Whether the undertaking is necessary or expedient.
- (2) The nature and amount of the outstanding debt of the contracting unit.
- (3) The unit's debt management procedures and policies.
- (4) The unit's tax and special assessments collection record.
- (5) The unit's compliance with the Local Government Budget and Fiscal Control Act.
- (6) Whether the unit is in default in any of its debt service obligations.
- (7) The unit's present tax rates, and the increase in tax rate, if any, necessary to raise the sums to fall due under the proposed contract.
- (8) The unit's appraised and assessed value of property subject taxation.
- (9) The ability of the unit to sustain the additional taxes necessary to perform the contract.
- (10) If the proposed contract is for a utility or public service enterprise, the probable net revenues of the undertaking to be financed and the extent to which the revenues of the utility or enterprise, after addition of the revenues of the undertaking to be financed, will be sufficient to meet the sums to fall due under the proposed contract.
- (11) Whether the undertaking could be financed by a bond issue, and the reasons and justifications offered by the contracting unit for choosing this method of financing rather than a bond issue.

The Commission shall have authority to inquire into and to give consideration to any other matters that it may believe to have bearing on whether the contract should be approved.

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

- (1) That the proposed contract is necessary or expedient.

- (2) That the contract, under the circumstances, is preferable to a bond issue for the same purpose.
- (3) That the sums to fall due under the contract are adequate and not excessive for its proposed purpose.
- (4) That the unit's debt management procedures and policies are good, or that reasonable assurances have been given that its debt will henceforth be managed in strict compliance with law.
- (5) That the increase in taxes, if any, necessary to meet the sums to fall due under the contract will not be excessive.
- (6) That the unit is not in default in any of its debt service obligations.

The Commission need not find all of these facts and conclusions if it concludes that (i) the proposed project is necessary and expedient, (ii) the proposed undertaking cannot be economically financed by a bond issue and (iii) the contract will not require an excessive increase in taxes.

If the Commission tentatively decides to deny the application because it cannot be supported from the information presented to it, it shall so notify the unit filing the application. If the unit so requests, the Commission shall hold a public hearing on the application at which time any interested persons shall be heard. The Commission may appoint a hearing officer to conduct the hearing and to present a summary of the testimony and his recommendation for the Commission's consideration.

"§ 159-152. Order approving or denying the application. — (a) After considering an application, and conducting a public hearing thereon if one is requested under G.S.159-151, the Commission shall enter its order either approving or denying the application. An order approving an application shall not be regarded as an approval of the legality of the contract in any respect.

(b) If the Commission enters an order denying an application, the proceedings under this Article shall be at an end."

"Article 9.

"Bond Anticipation and Tax and Revenue Anticipation Notes.

"Part 1.

"Bond Anticipation Notes.

"§ 159-161. Bond anticipation bonds. — At any time after a bond order has taken effect, the issuing unit may borrow money for the purposes for which the bonds are to be issued, in anticipation of the receipt of the proceeds of the sale of the bonds, and within the maximum authorized amount of the bond issue. Bond anticipation notes shall be payable not later than five years after the time the bond order takes effect and shall not be renewed or extended beyond such time, except that if the issuance of bonds under the bond order is prevented or prohibited by any order of any court, the bond anticipation notes may be renewed or extended by the length of time elapsing between the date of institution of the action or proceeding and the date of its final disposition. Any extension of the time for issuing bonds under a bond order granted by act of the General Assembly pursuant to G.S. 159-64 shall also extend the time for issuing notes under this section for the same period of time.

"§ 159-162. Security of general obligation bond anticipation notes. — The faith and credit of the issuing unit are hereby pledged for the payment of each note issued in anticipation of the sale of general obligation bonds according to its terms, and the power and obligation of the issuing unit to levy taxes and raise other revenues for the prompt payment of such notes shall be unrestricted as to rate or amount, notwithstanding any other provisions of law. The proceeds of each general obligation bond issue are also hereby pledged for the payment of any notes issued in anticipation of the sale thereof, and any such notes shall be retired from the proceeds of the bonds as the first priority. In the discretion of the governing board, notes issued in anticipation of the sale of general obligation bonds may be paid from current revenues or other

funds instead of from the bond proceeds, but if this is done, the bond order shall be amended to reduce the aggregate authorized principal amount by the amount of the bond anticipation notes and accrued interest thereon. Such an amendment need not be published and shall take effect upon its passage.

"§ 159-163. Security of revenue bond anticipation notes. — Notes issued in anticipation of the sale of revenue bonds are hereby declared special obligations of the issuing unit. Neither the credit nor the taxing power of the issuing unit may be pledged for the payment of notes issued in anticipation of the sale of revenue bonds, and no holder of a revenue bond anticipation note shall have the right to compel the exercise of the taxing power by the issuing unit or the forfeiture of any of its property in connection with any default thereon. Notes issued in anticipation of the sale of revenue bonds shall be secured by the same pledges, charges, liens, covenants, and agreements made to secure the revenue bonds. In addition, the proceeds of each revenue bond issue are hereby pledged for the payment of any notes issued in anticipation of the sale thereof, and any such notes shall be retired from the proceeds of the sale as the first priority.

"§ 159-164. Negotiable notes to be issued. — Bond anticipation loans shall be evidenced by negotiable notes which are hereby declared to be investment securities within the meaning of Article 8 of the Uniform Commercial Code as enacted in this State. Bond anticipation notes may be renewed or extended from time to time, but not beyond the time period allowed in G.S. 159-161. The governing board may authorize the issuance of bond anticipation notes by resolution which shall fix the actual or maximum face amount of the notes and may authorize any officer to fix the face amount and rate of interest within the limitations prescribed by the resolution. The resolution shall specify the form and manner of execution of the notes.

"§ 159-165. Sale of bond anticipation notes. — Bond anticipation notes shall be sold by the Commission by public or private negotiations according to such procedures as the Commission may by regulation prescribe.

"Part 2. Tax and Revenue Anticipation Notes.

"§ 159-169. Tax anticipation notes. — (a) A unit of local government having the power to levy taxes is authorized to borrow money for the purpose of paying appropriations made for the current fiscal year in anticipation of the collection of taxes due and payable within the fiscal year, and to issue its negotiable notes in evidence thereof. A tax anticipation note shall mature not later than 30 days after the close of the fiscal year in which it is issued, and may not be renewed beyond that time.

(b) No tax anticipation loan shall be made if the amount thereof, together with the amount of tax anticipation notes authorized or outstanding on the date the loan is authorized, would exceed fifty per cent (50%) of the amount of taxes uncollected as of the date of the proposed loan authorization, as certified in writing to the governing board by the chief financial officer of the issuing unit. Each tax anticipation note shall bear on its face or reverse the following certificate signed by the finance officer: This note and all other tax anticipation notes of [issuing unit] authorized or outstanding as of [date] amount to less than fifty per cent (50%) of the amount of taxes for the current fiscal year uncollected as of the above date.' No tax anticipation note shall be valid without this certificate.

(c) The faith and credit of the issuing unit are hereby pledged for the payment of each tax anticipation note issued under this section according to its terms, and the power and obligation of the issuing unit to levy taxes and raise other revenues for the prompt payment of such notes shall be unrestricted as to rate or amount, notwithstanding any other provisions of law.

"§ 159-170. Revenue anticipation notes. — (a) A unit of local government is authorized to borrow money for the purpose of paying appropriations made for the current fiscal year in anticipation of the receipt of revenues, other than taxes, estimated in its budget to be realized in cash during the fiscal year, and to issue its negotiable notes in evidence thereof. A revenue

anticipation note shall mature not later than 30 days after the close of the fiscal year in which it is issued, and may not be renewed beyond that time.

(b) No revenue anticipation loan shall be made if the amount thereof, together with the amount of all revenue anticipation notes authorized or outstanding on the date the loan is authorized, would exceed eighty per cent (80%) of the revenues of the issuing unit, other than taxes, estimated in its budget to be realized in cash during the fiscal year. Each revenue anticipation note shall bear on its face a statement to the effect that it is payable solely from budgeted non-tax revenues of the issuing unit and that the faith and credit of the issuing unit are not pledged for the payment of the note, and on its face or reverse the following certificate signed by the finance officer: 'This note and all other revenue anticipation notes of [issuing unit] authorized or outstanding as of [date] amount to less than eighty per cent (80%) of the budgeted nontax revenues for the current fiscal year as of the above date.' No revenue anticipation note shall be valid without this certificate.

(c) Revenue anticipation notes issued under this section shall be special obligations of the issuing unit. Neither the credit nor the taxing power of the issuing unit may be pledged for the payment of revenue anticipation notes, and no holder of a revenue anticipation note shall have the right to compel the exercise of the taxing power by the issuing unit or the forfeiture of any of its property in connection with any default thereon.

"§ 159-172. Authorization and issuance of notes. — (a) Notes issued under G.S. 159-169 and 159-170 shall be authorized by resolution of the governing board of the issuing unit. The resolution shall fix the maximum aggregate principal amount of notes to be issued thereunder, and authorize the chief financial officer of the issuing unit authority to determine the face amount of individual notes and their rate of interest within limitations prescribed in the resolution. The notes shall be signed with the manual or facsimile signature of officers designated by the governing board for that purpose. Several notes may be issued under one authorization so long as the aggregate principal amount of notes outstanding at any one time does not exceed the limits of the authorization.

(b) Notes issued under G.S. 159-169, 159-170, and 159-171 shall be sold by the Commission by public or private sale according to such procedures as the Commission may prescribe.

"Article 10.

"Assistance for Defaulting Units in Refinancing Debt.

"§ 159-176. Commission to aid defaulting units in developing refinancing plans. — If a unit of local government or municipality (as defined in G.S. 159-44 or G.S. 159-81) fails to pay any installment of principal or interest on its outstanding debt on or before the due date (whether the debt is evidenced by general obligation bonds, revenue bonds, bond anticipation notes, tax anticipation notes, or revenue anticipation notes) and remains in default for 90 days, the Commission may take such action as it deems advisable to investigate the unit's fiscal affairs, consult with its governing board, and negotiate with its creditors in order to assist the unit in working out a plan for refinancing, adjusting, or compromising the debt. When a plan is developed that the Commission finds to be fair and equitable and reasonably within the ability of the unit to meet, the Commission shall enter an order finding that it is fair, equitable, and within the ability of the unit to meet. The Commission shall then advise the governing board to take the necessary steps to implement it. If the governing board declines or refuses to do so within 90 days after receiving the Commission's advice, the Commission may enter an order directing the governing board to implement the plan. When this order is entered, the members of the governing board and all officers and employees of the unit shall be under an affirmative duty to do all things necessary to implement the plan. The Commission may apply to the appropriate division of the General Court of Justice for a court order to the governing board and other officers and employees of the unit to enforce the Commission's order.

"§ 159-177. Power to require reports and approve budgets. — When a refinancing plan has been put into effect pursuant to G.S. 159-176, the Commission shall have authority to require any periodic reports on the unit's financial affairs (in addition to those otherwise required by law) that the Secretary deems necessary, and to approve or reject the unit's annual budget. The governing board of the unit shall obtain the approval of the Secretary before adopting the annual budget. If the Commission recommends modifications in the budget, the governing board shall be under an affirmative duty to make the modifications before adopting the budget.

"§ 159-178. Duration of Commission's powers. — The power and authority granted to the Commission in this Article shall continue with respect to a defaulting unit of local government until the Commission is satisfied that the unit has performed or will perform the duties required of it in the refinancing plan, and until agreements made with the unit's creditors have been performed in accordance with the plan.

"Article 11.

"Enforcement of Chapter.

"§ 159-181. Enforcement of chapter. — (a) If any finance officer, governing board member, or other officer or employee of any local government or public authority shall approve any claim or bill knowing it to be fraudulent, erroneous, or otherwise invalid, or make any written statement, give any certificate, issue any report, or utter any other document required by this chapter, knowing that any portion of it is false, or shall willfully fail or refuse to perform any duty imposed upon him by this chapter, he is guilty of a misdemeanor and upon conviction shall be fined not more than one thousand dollars (\$1,000), forfeits his office, and shall also be personally liable in a civil action for all damages suffered thereby by the unit or authority or the holders of any of its obligations.

(b) If any person embezzles any funds belonging to any unit of local government or local public authority, or appropriates to his own use any personal property having a value of more than fifty dollars (\$50.00) belonging to any unit of local government or local public authority, in addition to the crimes and punishment otherwise provided by law, upon conviction he forfeits his office or position and is forever thereafter barred from holding any office or place of trust or profit under the State of North Carolina or any political subdivisions thereof until the disability is removed in the manner provided for restoration to citizenship in Chapter 13 of the General Statutes.

(c) The Local Government Commission shall have authority to impound the books and records of any unit of local government or public authority and assume full control of all its financial affairs (i) when the unit or authority defaults on any debt service payment or, in the opinion of the Commission, will default on a future debt service payment if the financial policies and practices of the unit or authority are not improved, or (ii) when the unit or authority persists, after notice and warning from the Commission, in willfully or negligently failing or refusing to comply with the provisions of this chapter. When the Commission takes action under this section, the Commission is vested with all of the powers of the governing board as to the levy of taxes, expenditure of money, adoption of budgets, and all other financial powers conferred upon the governing board by law.

"§ 159-182. Offending officers and employees removed from office. — Without abating any provisions of law for criminal and civil actions, when the Commission has probable cause to believe that any officer or employee of a unit of local government or public authority has committed any act or made any omission that results in a forfeiture of office or position, the Commission may enter an order suspending the offender from further performance of his office or employment, after first giving him notice and an opportunity to be heard in his own defense, pending the outcome of quo warranto proceedings. Upon suspending a local officer or employee under this section, the Commission shall report the circumstances to the Attorney General who shall initiate quo warranto proceedings against the officer or employee in the General Court of Justice. If an officer or employee persists in performing any official act in

violation of an order of the Commission suspending him from performance of his duties, the Commission may apply to the General Court of Justice for a restraining order and injunction."

Sec. 2. The County Finance Act, comprising G.S. 153-69 through 153-113, of the General Statutes, is repealed.

Sec. 3. The County Fiscal Control Act, comprising G.S. 153-114 through 153-142 of the General Statutes, is repealed.

Sec. 4. The County Capital Reserve Act, comprising G.S. 153-142.1 through 153-142.9, is repealed.

Sec. 5. Article 10B of Chapter 153 of the General Statutes (concerning Capital Public Health and Mental Health Center Reserve Funds), comprising G.S. 153-142.22 through 153-142.26, is repealed.

Sec. 6. G.S. 153-9(42), 153-29, 153-30, 153-31, and 153-32 are repealed.

Sec. 7. G.S. 115-80.1 through 115-80.5 of the General Statutes (concerning school capital reserve funds) are repealed.

Sec. 8. Article 11 of Chapter 153 of the General Statutes (concerning county and municipal accounting systems), comprising G.S. 153-143 through 153-147, is repealed.

Sec. 9. Article 12 of Chapter 153 of the General Statutes (concerning county and municipal sinking funds), comprising G.S. 153-148 through 153-151, is repealed.

Sec. 10. Article 7 of Chapter 160 of the General Statutes (concerning general municipal debts), comprising G.S. 160-62 through 160-64, is repealed.

Sec. 11. Article 20 of Chapter 160 of the General Statutes (concerning municipal accounting systems), consisting of G.S. 160-290, is repealed.

Sec. 12. The Municipal Finance Act, being Subchapter III of Chapter 160 of the General Statutes, including Articles 25, 26, 27, 28, 29, 30, 31, and 32, and comprising G.S. 160-367 through 160-408, is repealed.

Sec. 13. The Municipal Fiscal Control Act, comprising G.S. 160-409 through 160-412.5 of the General Statutes, is repealed.

Sec. 14. The Revenue Bond Act of 1938, comprising G.S. 160-413 through 160-424 of the General Statutes, is repealed.

Sec. 15. Article 34 A of Chapter 160 of the General Statutes (concerning bonds to finance sewage disposal systems), comprising G.S. 160-424.1 through 160-424.8, is repealed.

Sec. 16. Article 35 of Chapter 160 of the General Statutes (concerning municipal capital reserve funds), comprising G.S. 160-425 through 160-434, is repealed.

Sec. 17. Article 39 of Chapter 160 of the General Statutes (concerning bonds to finance parking facilities), comprising G.S. 160-497 through 160-507, is repealed.

Sec. 18. G.S. 160-481 is amended by adding a new subdivision at the end thereof as follows:

"(12) To issue revenue bonds under the Local Government Revenue Bond Act."

Sec. 19. G.S. 160-485, 160-486, 160-487, 160-488, 160-489, and 160-493 are repealed.

Sec. 20. Chapter 107 of the General Statutes (concerning agricultural development districts) is repealed.

Sec. 21. G.S. 131-101 is rewritten to read as follows:

"§ 131-101. **Authority to issue revenue bonds.** — A hospital authority shall have power from time to time to issue revenue bonds under the Local Government Revenue Bond Act for the purpose of constructing, furnishing, and equipping new buildings or additions to existing buildings."

Sec. 22. (a) G.S. 131-92(12), 131-92(15), 131-102, 131-103, 131-104, 131-105, 131-106, 131-107, 131-109, and 131-113 are repealed.

(b) G.S. 131-92(2) is rewritten to read as follows:

"(2) 'Bonds' shall mean any bonds or notes issued by the authority pursuant to this Article and the Local Government Finance Act."

Sec. 23. G.S. 131-114 is amended by changing the period at the end thereof to a comma and adding the following clause: "but no such appropriations shall be deemed a revenue of the authority for the purpose of bonds of the authority issued under the Local Government Revenue Bond Act."

Sec. 24. G.S. 131-14, 131-30, 131-35, and 131-42 are repealed.

Sec. 25. G.S. 130-215 is rewritten to read as follows:

"§ 130-215. **Bond issues.** — A mosquito control district shall have power from time to time to issue bonds and notes under the Local Government Bond Act."

Sec. 26. G.S. 130-216, 130-217, 130-218, and 130-219 are repealed.

Sec. 27. G.S. 130-134 is rewritten to read as follows:

"§ 130-134. **Bonds and notes authorized.** — A sanitary district shall have power from time to time to issue bonds and notes under the Local Government Finance Act."

Sec. 28. G.S. 130-135, 130-136, 130-137, 130-138, 130-139, 130-140, and 130-142 are repealed.

Sec. 29. (a) G.S. 130-141 is rewritten to read as follows:

"§ 130-141. **Annual budget; tax levy.** — (a) Each sanitary district shall operate under an annual balanced budget adopted in accordance with the Local Government Budget and Fiscal Control Act.

(b) Each sanitary district has the option of either collecting its own taxes or having its taxes collected by the county or counties in which it is located. Unless a district takes affirmative action to collect its own taxes, its taxes shall be collected by the county. Subsection (c) of this section applies to districts whose taxes are collected by the county; subsection (d) applies to districts that collect their own taxes.

(c) Before May 1 of each year, the tax supervisor of each county in which the district is located shall certify to the district board the total assessed value of property in the county subject to taxation by the district, and the county's assessment ratio. Upon adopting its annual budget ordinance, but not later than July 1, the district board shall certify to the board of county commissioners of each county the rate of ad valorem tax levied by the district on property in that county. If the assessment ratios are not identical in all counties in which the district is located, the district budget ordinance shall levy separate rates of ad valorem taxes for each county. These rates shall be adjusted so that the effective rate is the same for all property located in the district. The "effective rate" is that rate of tax which will produce the same tax liability on property of equal appraised value. Upon receiving the district's certification of its tax levy, the county commissioners shall cause the district tax to be computed for each taxpayer and shall include the district tax, separately stated, on the county tax receipts for the fiscal year. The county shall collect the district tax in the same manner that county taxes are collected, and shall remit these collections to the district at least monthly. Partial payments shall be proportionately divided between the county and the district. The district budget ordinance may include an appropriation to the county for the cost to the county of computing, billing, and collecting the district tax. The amount of the appropriation shall be agreed upon by the county and the district, but may not exceed five per cent (5%) of the district levy. Any such agreement shall stand from year to year until modified by mutual agreement. The amount due the county for collecting the district tax may be deducted by the county from its monthly remittances to the district, or may be paid to the county by the district.

(d) Sanitary districts electing to collect their own taxes shall be deemed cities for the purposes of the Machinery Act. If such a district is located in more than one county, the district governing board may adopt the assessments placed upon property located in the district by the counties in which the district is located if, in the opinion of the governing board, the same appraisal and assessment standards will thereby apply uniformly throughout the municipality. If

the governing board determines that adoption of the assessments fixed by the counties will not result in uniform appraisals and assessments throughout the district, the governing board may, by horizontal adjustments, equalize the appraisal values fixed by the counties and then, in accordance with the procedure prescribed in the Machinery Act, select and adopt an assessment ratio to be applied to the appraised values of property subject to district taxation as equalized by the governing board. Taxes levied by the district shall be levied uniformly on the assessments so determined."

(b) G.S. 130-128 is amended by repealing the paragraphs thereof numbered (2), (3), (16), and (21).

(c) Paragraph (4) of G.S. 130-128 is rewritten to read as follows:

"(4) To levy taxes on property having a situs in the district to carry out the powers and duties conferred and imposed on the district by law, and to pay the principal of and interest on bonds and notes of the district."

Sec. 30. G.S. 153-301 is rewritten to read as follows:

"§ 153-301. **Bonds and notes authorized.** — A metropolitan sewerage district shall have power from time to time to issue bonds and notes under the Local Government Finance Act."

Sec. 31. G.S. 153-302, 153-303, 153-304, 153-305, 153-306, 153-307, 153-308, 153-310, 153-311, 153-312, 153-314, 153-315, and 153-316 are repealed.

Sec. 32. G.S. 162A-8 is rewritten to read as follows:

"§ 162A-8. **Revenue Bonds.** — A water and sewer authority shall have power from time to time to issue revenue bonds under the Local Government Revenue Bond Act."

Sec. 33. G.S. 162A-10 is repealed.

Sec. 34. Chapter 155 of the General Statutes is repealed.

Sec. 35. G.S. 108-56(b) is rewritten to read as follows:

"(b) Appropriations and revenue estimates for each of the public assistance programs required by this Chapter and for administrative expenses shall be separately shown in the county budget ordinance and the accounting system. In the discretion of the board of county commissioners, the budget ordinance and accounting system may set up these programs (i) as separate lines within the general fund, (ii) within separate funds for each program, or (iii) within a single public assistance fund. Taxes levied for public assistance programs and administration shall be sufficient, when combined with other funds available for use for public assistance expenses from any other source of revenue (including borrowing in anticipation of collection of taxes), to meet the financial requirements of public assistance."

Sec. 36. Chapter 142 of the General Statutes is amended by inserting a new section therein as follows:

"§ 142-15.1. **Lost, stolen, defaced, or destroyed State bonds.** — (a) If lost, stolen, or completely destroyed, any State bond, note, or coupon may be reissued in the same form and tenor upon the owner's furnishing to the satisfaction of the State Treasurer: (i) proof of ownership, (ii) proof of loss or destruction, (iii) a surety bond in twice the face amount of bond or note and coupon, and (iv) payment of the cost of preparing and issuing the new bond, note, or coupon.

(b) If defaced or partially destroyed, any State bond, note, or coupon may be reissued in the same form and tenor to the bearer or registered holder, at his expense, upon surrender of the defaced or partially destroyed bond, note, or coupon and on such other conditions as the State Treasurer may prescribe. The State Treasurer may also provide for authentication of defaced or partially destroyed bonds, notes, or coupons instead of reissuing them.

(c) Each new State bond, note, or coupon issued under this section shall be signed by the State Treasurer and shall contain a recital to the effect that it is issued in exchange for or replacement of a certain bond, note, or coupon (describing it sufficiently to identify it) and is to be deemed a part of the same issue as the original bond, note, or coupon.

(d) Before taking action under this section to replace, exchange, or authenticate a State bond, note, or coupon, the State Treasurer shall obtain the advice and consent of the Council of State."

Sec. 37. G.S. 98-19 and G.S. 98-20 are repealed.

Sec. 38. Nothing in this act is intended to affect in any way any rights or interests (whether public or private) (i) now vested or accrued, in whole or in part, the validity of which might be sustained or preserved by reference to any provisions of law repealed by this act, or (ii) derived from or which might be sustained or preserved in reliance upon, action heretofore taken (including the adoption of orders, ordinances, or resolutions) pursuant to or within the scope of any provision of law repealed by this act.

Sec. 39. No law heretofore repealed expressly or by implication, and no law granting authority which has been exhausted, shall be revived by (i) the repeal herein of any acts repealing such law, or (ii) any provision of this act that disclaims an intention to repeal or affect enumerated or designated laws.

Sec. 40. Nothing in this act shall be construed to impair the obligation of any bond, note, or coupon outstanding on the effective date of this act.

Sec. 41. No action or proceeding of any nature (whether civil or criminal, judicial or administrative, or otherwise) pending at the effective date of this act shall be abated or otherwise affected by the adoption of this act.

Sec. 42. If any provision of this act or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of this 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. 43. All laws and clauses of laws in conflict with this act are repealed.

Sec. 44. This act shall take effect on July 1, 1973.

In the General Assembly read three times and ratified, this the 7th day of July, 1971.