

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1993

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SENATE BILL 694

Short Title: Special Obligation Bonds.

(Public)

Sponsors: Senators Carpenter, Hartsell; Lee, Speed, Martin of Pitt, Codington, Cochrane, Blackmon, Forrester, Smith, Allran, and Albertson.

Referred to: Finance.

April 5, 1993

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

7 The General Assembly of North Carolina enacts:

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

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

12 **"§ 159-111.1. Short title.**

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

14 **"§ 159-112. Definitions.**

15 The following definitions apply in this Article:

16 (1) Municipality. A county, a city, a town, an incorporated village, or a  
17 sanitary district. The term does not include any other form of local  
18 government.

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

20 a. Providing jails and other confinement facilities.

21 b. Providing courthouses, including offices, meeting rooms,  
22 courtrooms, court facilities, and detention facilities.

- 1           c.     Providing sanitary sewer systems, including community  
2                 sewerage facilities for the collection, treatment, and disposal of  
3                 sewage, septic tank systems, and other on-site collection and  
4                 disposal facilities or systems.  
5           d.     Providing water systems, including facilities for the supply,  
6                 storage, treatment, and distribution of water.  
7           e.     Providing hospital facilities, as defined in G.S. 159-48(7).

8     A municipal purpose includes any undertaking for the acquisition,  
9     construction, reconstruction, improvement, enlargement, betterment,  
10    or extension of any of the foregoing facilities or systems owned or  
11    leased as lessee by the municipality. The cost of an undertaking may  
12    include all property, both real and personal and improved and  
13    unimproved, plants, works, appurtenances, machinery, equipment,  
14    easements, water rights, air rights, franchises, and licenses used or  
15    useful in connection with any of the foregoing facilities and systems;  
16    the cost of demolishing or moving structures from land acquired and  
17    the cost of acquiring any lands to which such structures are to be  
18    moved; financing charges; the cost of plans, specifications, surveys,  
19    and estimates of cost and revenues; administrative and legal expenses;  
20    and any other expense necessary or incident to the undertaking.

21       (3)    Special obligation bond. A bond issued by a municipality pursuant to  
22         this Article. The term does not include a revenue bond issued pursuant  
23         to Article 5 of this Chapter.

24       (4)    Special obligation bond anticipation note. A bond anticipation note  
25         issued by a municipality pursuant to this Article. The term does not  
26         include a revenue bond anticipation note issued pursuant to Article 5  
27         and Article 9 of this Chapter.

28    **"§ 159-113. Purpose.**

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

34    **"§ 159-114. Powers.**

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

- 39           (1)    To exercise in connection with any municipal purpose for which it  
40                 could issue revenue bonds pursuant to Article 5 of this Chapter the  
41                 powers granted to it pursuant to G.S. 159-83, except that for the  
42                 purposes of this Article: (i) additional security may be created as  
43                 provided in this Article notwithstanding the provisions of G.S. 159-  
44                 83(a)(5); and (ii) any rates, fees, rentals, tolls, and charges fixed and

- 1                   charged by it pursuant to G.S. 159-83(a)(6) need not produce any  
2                   minimum amount of revenues.
- 3           (2)       To borrow money to provide funds for any one or more municipal  
4                   purposes and to issue its special obligation bonds or special obligation  
5                   bond anticipation notes in evidence thereof as provided in this Article.
- 6           (3)       To pledge for the payment of its special obligation bonds, special  
7                   obligation bond anticipation notes, and interest and any premium on  
8                   bonds and notes any revenue source that may be available for use by  
9                   the municipality for the municipal purpose or purposes to be financed  
10                  and, to the extent the generation of revenue is within the power of the  
11                  municipality, to enter into covenants to take action to generate the  
12                  revenue, but only to the extent that any use of a source to pay the  
13                  principal of or interest or premium on the bonds or notes or any  
14                  covenant to generate revenues will not constitute a pledge of the taxing  
15                  power of the municipality. A municipality may, in its sole discretion,  
16                  use tax proceeds to pay the principal of or interest or premium on the  
17                  bonds or notes, but shall not pledge or agree to do so.
- 18          (4)       To appropriate, apply, or expend for the following purposes the  
19                  proceeds of its special obligation bonds, special obligation bond  
20                  anticipation notes, and revenue sources that may be used under any  
21                  bond order or trust agreement authorizing or securing such bonds or  
22                  notes: (i) to pay interest on the bonds or notes and the principal or  
23                  redemption price of the bonds or notes when due; (ii) to meet reserves  
24                  and other requirements set forth in the bond order or trust agreement;  
25                  (iii) to provide funds for the municipal purpose authorized in the bond  
26                  order or trust agreement and to provide working capital for initial  
27                  maintenance and operation; and (iv) to pay and discharge special  
28                  obligation bonds, revenue bonds, general obligation bonds, and notes  
29                  issued in anticipation of these bonds.
- 30          (5)       In connection with issuing its special obligation bonds or special  
31                  obligation bond anticipation notes to finance the providing of a  
32                  municipal purpose pursuant to this Article, to grant a security interest  
33                  in the municipal purpose financed, or in all or some portion of the  
34                  property on which the municipal purpose is located, or in both. If a  
35                  municipality determines to provide additional security as authorized by  
36                  this subdivision, the following conditions apply:
- 37                  a.       No bond order may contain a nonsubstitution clause that restricts the  
38                  right of a municipality to: (i) continue to provide a service or activity or (ii)  
39                  replace or provide a substitute for any municipal purpose financed pursuant to such  
40                  bond order.
- 41                  b.       A bond order is subject to approval by the Commission under Article 8  
42                  of this Chapter if it: (i) meets the standards set out in G.S. 159-148(a)(1), 159-  
43                  148(a)(2), and 159-148(a)(3), or involves the construction or repair of fixtures or

1 improvements on real property; and (ii) is not exempted from the provisions of Article  
2 8 of this Chapter by one of the exemptions contained in G.S. 159-148(b).

3 c. No deficiency judgment payable from sources derived from the  
4 exercise of a municipality's taxing power may be rendered  
5 against any municipality in any action for breach of a bond  
6 order authorized by this Article, and the taxing power of a  
7 municipality is not and may not be pledged directly or  
8 indirectly to secure any moneys due under a bond order  
9 authorized by this section. A municipality may, in its sole  
10 discretion, use tax proceeds to pay the principal of or interest or  
11 premium on bonds or notes, but shall not pledge or agree to do  
12 so.

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

18 **"§ 159-115. Authorization of special obligation bonds and notes.**

19 Each municipality may issue its special obligation bonds and special obligation bond  
20 anticipation notes in such principal amount as may be necessary to provide sufficient  
21 funds for one or more municipal purposes, including engineering, inspection, legal, and  
22 financial fees and costs; interest on the bonds or notes issued in anticipation of the  
23 bonds during construction; if deemed advisable by the municipality, for a period not  
24 exceeding two years after the estimated date of completion of construction,  
25 establishment of debt service reserves; and all other expenditures of the municipality  
26 incidental and necessary or convenient to the municipal purposes, including, except as  
27 expressly modified by this Article, the costs set forth as the cost of an undertaking in the  
28 last paragraph of G.S. 159-81(3).

29 Each municipality may issue further special obligation bonds and may refund  
30 outstanding special obligation bonds issued pursuant to this Article or G.S. 159I-30,  
31 general obligation bonds issued pursuant to Article 4 of this Chapter, or revenue bonds  
32 issued pursuant to Article 5 of this Chapter, whether or not they have matured. Special  
33 obligation bonds may be issued partly for the purpose of refunding these outstanding  
34 bonds and partly for any other purpose authorized under this Article. Special obligation  
35 bonds issued to refund these outstanding bonds shall be issued under this Article and not  
36 under any other law.

37 Special obligation refunding bonds may be issued at any time before the final  
38 maturity of the special obligation bonds, general obligation bonds, or revenue bonds to  
39 be refunded. The proceeds from the sale of any special obligation refunding bonds shall  
40 be applied only either: (i) to the immediate payment and retirement of the bonds being  
41 refunded or (ii) if not required for the immediate payment of the bonds being refunded,  
42 to a trust account to provide for the payment and retirement of the bonds being refunded  
43 and to pay any expenses incurred in connection with the refunding, but provision may  
44 be made for the pledging and disposition of any amounts in excess of the amounts

1 required for these purposes, including provision for the pledging of the excess to the  
2 payment of the principal of and interest on any issue or series of refunding bonds issued  
3 pursuant to G.S. 159-78. Money in such a trust account may be invested: (i) in direct  
4 obligations of the United States government, (ii) in obligations, the principal of and  
5 interest on which are guaranteed by the United States government, (iii) to the extent  
6 then permitted by law, in obligations of any agency or instrumentality of the United  
7 States government, or (iv) in certificates of deposit issued by a bank or trust company  
8 located in this State if the certificates are secured by a pledge of any of the obligations  
9 described in (i), (ii), or (iii) having an aggregate market value, exclusive of accrued  
10 interest, equal at least to the principal amount of the certificates secured. This section  
11 does not limit the duration of any deposit in trust for the retirement of bonds being  
12 refunded but which have not matured and which are not presently redeemable or, if  
13 presently redeemable, have not been called for redemption.

14 The principal amount of refunding bonds issued pursuant to this section, together  
15 with the principal amount of refunding bonds, if any, issued under G.S. 159-78 in  
16 conjunction with refunding bonds issued pursuant to this section, shall not exceed the  
17 amount set forth in G. S. 159-78.

18 **"§ 159-116. Application to Commission for approval of special obligation bond**  
19 **issue; preliminary conference; acceptance of application.**

20 (a) A municipality may not issue special obligation bonds under this Article  
21 unless the issue is approved by the Commission. The governing board of the issuing  
22 municipality, or its duly authorized agent, shall file an application for Commission  
23 approval of the issue with the secretary of the Commission. The application shall state  
24 such facts and have attached to it such documents concerning the proposed special  
25 obligation bonds, the revenue sources that may be pledged for the payment of the bonds,  
26 and the financial condition of the issuing municipality as the secretary may require. The  
27 Commission may prescribe the form of the application.

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

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

37 **"§ 159-117. Approval of application by Commission.**

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

- 40 (1) Whether the municipal purpose to be financed from the proceeds of the  
41 special obligation bond issue is necessary or expedient.
- 42 (2) Whether the proposed municipal purpose is feasible.
- 43 (3) The municipality's debt management procedures and policies.

- 1           (4) Whether the municipality is in default in any of its debt service  
2           obligations.
- 3           (5) Whether the revenue sources to be pledged for the payment of the  
4           proposed special obligation bonds will be sufficient to service the  
5           bonds.
- 6           (6) The ability of the Commission to market the proposed special  
7           obligation bonds at reasonable rates of interest.

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

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

- 12           (1) That the proposed special obligation bond issue is necessary or  
13           expedient.
- 14           (2) That the amount proposed is adequate and not excessive for the  
15           proposed municipal purpose of the issue.
- 16           (3) That the proposed municipal purpose is feasible.
- 17           (4) That the municipality's debt management procedures and policies are  
18           good or that reasonable assurances have been given that its debt will  
19           henceforth be managed in strict compliance with law.
- 20           (5) That the proposed special obligation bonds can be marketed at a  
21           reasonable interest cost to the municipality.

22 **"§ 159-118. Order approving or denying the application.**

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

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

28 **"§ 159-118.1. Adoption of special obligation bond order.**

29       (a) At any time after the Commission approves an application for the issuance of  
30 special obligation bonds and following the hearing required by subsection (c) of this  
31 section, the governing board of the municipality may adopt a special obligation bond  
32 order pursuant to this Article. The specific sources of payment pledged by a  
33 municipality shall be specifically identified in the proceedings of the governing board  
34 authorizing the municipality to issue the special obligation bonds.

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

42       (c) When the bond order is introduced, the board shall fix the time and place for  
43 a public hearing on the order. On the date fixed for the public hearing, which shall not  
44 be earlier than six days after the introduction of the special obligation bond order, the

1 board shall hear anyone who wishes to be heard on the question of the validity of the  
2 order or the advisability of issuing the bonds. The hearing may be adjourned from time  
3 to time.

4 **"§ 159-118.2. Special covenants.**

5 A special obligation bond order or a trust agreement authorizing or securing special  
6 obligation bonds and special obligation bond anticipation notes may contain covenants  
7 as to:

- 8 (1) The use of all or any part of the revenue source or sources to be  
9 pledged for the payment of the special obligation bonds and special  
10 obligation bond anticipation notes.
- 11 (2) Rates, fees, rentals, tolls, or other charges to be established,  
12 maintained, and collected and the use and disposal of revenues, gifts,  
13 grants, and funds received or to be received.
- 14 (3) The setting aside of debt service reserves and the regulation and  
15 disposition of the reserves.
- 16 (4) The custody, collection, securing, investment, and payment of any  
17 moneys held for the payment of special obligation bonds and special  
18 obligation bond anticipation notes.
- 19 (5) Limitations or restrictions on the purposes to which the proceeds of  
20 sale of special obligation bonds and special obligation bond  
21 anticipation notes then or thereafter to be issued may be applied.
- 22 (6) Limitations or restrictions on the issuance of additional special  
23 obligation bonds, special obligation bond anticipation notes, or other  
24 obligations; the terms upon which additional special obligation bonds,  
25 special obligation bond anticipation notes, or other obligations may be  
26 issued and secured; or the refunding of outstanding special obligation  
27 bonds, special obligation bond anticipation notes, or other bonds or  
28 notes.
- 29 (7) The procedure, if any, by which the terms of any contract with owners  
30 of special obligation bonds may be amended or abrogated, the  
31 percentage of special obligation bonds the owners of which must  
32 consent to the amendment or abrogation, and the manner in which this  
33 consent may be given.
- 34 (8) Events of default and the rights and liabilities arising upon default, the  
35 terms and conditions upon which special obligation bonds and special  
36 obligation bond anticipation notes shall become or may be declared  
37 due before maturity, and the terms and conditions upon which such a  
38 declaration and its consequences may be waived.
- 39 (9) The preparation and maintenance of a budget with respect to the  
40 revenues and expenses of the municipality, including the sources of  
41 revenues that may be pledged for the payment of the special obligation  
42 bonds and special obligation bond anticipation notes.

- 1           (10) The retention or employment of consulting engineers, independent  
2           auditors, and other technical consultants in connection with a project  
3           constituting a municipal purpose.
- 4           (11) Limitations on or the prohibition of free service by a project  
5           constituting a municipal purpose and a source of revenues that may be  
6           pledged for the payment of special obligation bonds and special  
7           obligation bond anticipation notes to any person, firm, or corporation,  
8           public or private.
- 9           (12) The acquisition and disposal of property for a project constituting a  
10          municipal bond purpose.
- 11          (13) Provisions for insurance and for accounting reports and the inspection  
12          and audit of the reports.
- 13          (14) The continuing operation and maintenance of a project constituting a  
14          municipal purpose or the utility or enterprise of which it is to become a  
15          part.

16 **"§ 159-118.3. Limitations on details of special obligation bonds; additional**  
17 **provisions.**

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

- 21           (1) The maturity dates may not exceed the maximum maturity periods  
22           prescribed by the Commission for general obligation bonds pursuant to  
23           G.S. 159-122.
- 24           (2) Any bond or note may be made subject to redemption prior to  
25           maturity, including redemption on demand of the owner, with or  
26           without premium, on such notice and at such time or times and with  
27           such redemption provisions as may be stated. When the bond or note  
28           has been validly called for redemption and provision has been made  
29           for the payment of (i) the principal of the bond or note, (ii) any  
30           redemption premium, and (iii) the interest on the bond or note accrued  
31           to the date of redemption, then interest on the bond or note shall cease.
- 32           (3) The bonds or notes may bear interest at such rate or rates, payable  
33           semiannually or otherwise, may be in such denominations, and may be  
34           payable in such kind of money and in such place or places within or  
35           without this State, as the issuing municipality may determine.
- 36           (4) No agreement or covenant shall contain a nonsubstitution clause that  
37           restricts the right of a municipality to replace or provide a substitute  
38           for any project financed pursuant to this Article.

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

- 42           (1) May be made payable from time to time on demand or tender for  
43           purchase by the owner if a Credit Facility supports the bonds or notes,  
44           unless the Commission specifically determines that the absence of a

1 Credit Facility will not materially and adversely affect the financial  
2 position of the municipality and the marketing of the bonds and notes  
3 at a reasonable interest cost to the municipality.

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

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

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

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

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

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

22 (1) Credit Facility. An agreement entered into by an issuing municipality  
23 with a bank, a savings and loan association, another banking  
24 institution, an insurance company, a reinsurance company, a surety  
25 company, another insurance institution, a corporation, an investment  
26 banking firm, another investment institution, or any financial  
27 institution providing for prompt payment of all or any part of the  
28 principal (whether at maturity, presentment or tender for purchase,  
29 redemption, or acceleration), redemption premium, if any, and interest  
30 on any such bonds or notes payable on demand or tender by the owner  
31 issued in accordance with this subsection, in consideration of the  
32 issuing municipality agreeing to repay the provider of the Credit  
33 Facility in accordance with the terms and provisions of the repayment  
34 agreement, provided, that any such repayment agreement shall provide  
35 that the obligation of the issuing municipality shall have only such  
36 sources of payment as are permitted for the payment of bonds or notes  
37 issued under this Article. A bank may include a foreign bank or  
38 branch or agency of a foreign bank the obligations of which bear the  
39 highest rating of at least one nationally recognized rating service and  
40 do not bear a rating below the highest rating of any nationally  
41 recognized rating service which rates such particular obligations.

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

- 1           a. A provision providing for adjustment so that the purchase price  
2           of the bonds or notes in the open market would be as close to  
3           par as possible;  
4           b. A provision providing for adjustment based upon percentages  
5           of a prime rate or base rate, which percentages may vary or be  
6           applied for different periods of time; or  
7           c. Any other provisions that the municipality may determine are  
8           consistent with this Article and do not materially and adversely  
9           affect the financial position of the municipality and the  
10           marketing of the bonds or notes at a reasonable interest cost to  
11           the municipality.

12       (d) No bond order shall be adopted under this Article if the issuance of the bonds  
13       under the order causes the net debt of the municipality to exceed eight percent (8%) of  
14       the appraised value of property subject to taxation by the issuing municipality; such  
15       calculation to be made in accordance with G.S. 159-55(a)(1).

16       (e) Special obligation bonds and special obligation bond anticipation notes issued  
17       pursuant to this Article shall be included in the calculation of gross debt under G.S. 159-  
18       55(a)(i).

19       **"§ 159-118.4. Lien of special obligation bonds and notes.**

20       (a) All special obligation bonds and special obligation bond anticipation notes  
21       issued under this Article shall be equally and ratably secured by a pledge and a lien  
22       upon the sources of revenues that may be pledged for their payment as provided in the  
23       bond order or trust agreement authorizing or securing the bonds or notes, without  
24       priority by reason of number, or of dates of bonds or notes, execution, or delivery, in  
25       accordance with the provisions of this Article and of the bond order or trust agreement;  
26       except that a municipality may provide in the bond order or trust agreement that special  
27       obligation bonds or special obligation bond anticipation notes issued pursuant thereto  
28       shall to the extent and in the manner prescribed in the bond order or trust agreement be  
29       subordinated and junior in standing, with respect to the payment of principal, interest,  
30       and any premium and the security therefor, to any other special obligation bonds or  
31       special obligation bond anticipation notes.

32       (b) The pledge of a municipality with respect to the sources of payment identified  
33       in a bond order or trust agreement pursuant to this Article shall be valid and binding  
34       upon the issuance of any special obligation bonds or special obligation bond  
35       anticipation notes under the bond order or trust agreement. The sources of payment so  
36       pledged and then held or thereafter received by a municipality or any fiduciary shall  
37       immediately be subject to the lien of the pledge without any physical delivery or further  
38       act, and the lien shall be valid and binding as against all parties having claims of any  
39       kind in tort, contract, or otherwise against the municipality without regard to whether  
40       the parties have notice of the lien. The bond order or trust agreement or any other  
41       document or action by which the pledge is created need not be filed or recorded in any  
42       manner other than as provided in this Article.

43       **"§ 159-118.5. Status of special obligation bonds under Uniform Commercial Code.**

1        Whether or not the special obligation bonds are investment securities under Article 8  
2 of Chapter 25 of the General Statutes, all special obligation bonds represented by  
3 instruments issued under this Article shall be treated as investment securities within the  
4 meaning of and for all the purposes of Article 8 of Chapter 25 of the General Statutes.

5 **"§ 159-118.6. Limited liability.**

6        Special obligation bonds and special obligation bond anticipation notes shall be  
7 special obligations of the municipality issuing them. The principal of and interest and  
8 any premium on special obligation bonds and special obligation bond anticipation notes  
9 shall be secured solely by any sources of payment pledged in the bond order or trust  
10 agreement under which they are authorized or secured, unless the use of the sources will  
11 constitute a pledge of the faith and credit of the municipality, or a legal or equitable  
12 pledge, charge, lien, or encumbrance upon any of its property, except as permitted by  
13 G.S. 159-114(a)(5), other than the sources or upon any other income, receipts, or  
14 revenues except to the extent that special obligation bond anticipation notes are payable  
15 from the proceeds of the special obligation bonds in anticipation of which they are  
16 issued. Neither the faith and credit nor the taxing power of the municipality is pledged  
17 for the payment of the principal of or interest or any premium on any special obligation  
18 bonds or special obligation bond anticipation notes, and no owner of special obligation  
19 bonds or special obligation bond anticipation notes has the right to compel the exercise  
20 of the taxing power by the municipality or the forfeiture of any of its property, except as  
21 permitted by G.S. 159-114(a)(5), in connection with any default on the bonds or notes.  
22 Every special obligation bond and special obligation bond anticipation note shall recite  
23 in substance that the principal of and interest and any premium on the bond or note are  
24 secured solely by the sources of payment specified in the bond order or trust agreement  
25 under which it is authorized or secured, provided that any such use of such sources will  
26 not constitute a pledge of the faith and credit of the municipality, and that the  
27 municipality is not obligated to pay the principal or interest or any premium except from  
28 the specified sources. A municipality may, in its sole discretion, use tax proceeds to pay  
29 the principal of or interest or premium on the bonds or notes, but shall not pledge or  
30 agree to do so.

31 **"§ 159-118.7. Bonds and notes eligible for investment.**

32        Bonds and notes issued under this Article are securities in which all public offices,  
33 agencies, and public bodies of the State and its political subdivisions, all insurance  
34 companies, trust companies, investment companies, banks, savings banks, building and  
35 loan associations, credit unions, pension or retirement funds, other financial institutions  
36 engaged in business in the State, executors, administrators, trustees, and other  
37 fiduciaries may properly and legally invest funds, including capital in their control or  
38 belonging to them. Such bonds or notes are securities which may properly and legally  
39 be deposited with and received by any officer or agency of the State or political  
40 subdivision of the State for any purpose for which the deposit of bonds, notes, or  
41 obligations of the State or any political subdivision is now or may hereafter be  
42 authorized by law.

43 **"§ 159-118.8. Tax exemption.**

1 Bonds and notes authorized by this Article and the coupons, if any, appertaining  
2 thereto, and their transfer (including any profit made on their sale), shall be exempt  
3 from all State, county, and municipal taxation or assessment, direct or indirect, general  
4 or special, whether imposed for the purpose of general revenue or otherwise, excluding  
5 inheritance and gift taxes. The interest on the bonds and notes shall not be subject to  
6 taxation as to income. The bonds, notes, and coupons, if any, shall not be subject to  
7 taxation when constituting a part of the surplus of any bank, trust company, or other  
8 corporation."

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

10 **"§ 159-78. Special obligation refunding bonds.**

11 In conjunction with the issuance of refunding bonds pursuant to ~~G.S. 159-72 or G.S.~~  
12 ~~159-84~~ G.S. 159-72, 159-84, or 159-115 a unit of local government may issue a series of  
13 refunding bonds which shall be payable from the excess of the amount required by a  
14 trust fund established pursuant to ~~G.S. 159-72 or G.S. 159-84~~ G.S. 159-72, 159-84, or  
15 159-115 to provide for the payment and retirement of the obligations being retired and  
16 the amount required to pay any expenses incurred in connection with such refunding to  
17 the extent such expenses are payable from said trust fund.

18 Such refunding bonds shall be special obligations of the municipality issuing them.  
19 The principal of and interest on such refunding bonds shall not be payable from the  
20 general funds of the municipality, nor shall they constitute a legal or equitable pledge,  
21 charge, lien, or encumbrance upon any of its property or upon any of its income,  
22 receipts, or revenues, except the trust fund established pursuant to ~~G.S. 159-72 or G.S.~~  
23 ~~159-84~~ G.S. 159-72, 159-84, or 159-115 from which such refunding bonds are payable.  
24 Neither the credit nor the taxing power of the municipality is pledged for the payment of  
25 the principal or interest of such refunding bonds, and no holder of such refunding bonds  
26 has the right to compel the exercise of the taxing power of the municipality or the  
27 forfeiture of any of its property in connection with any default thereon. Every such  
28 refunding bond shall recite in substance that the principal of and interest on the bond is  
29 payable solely from the trust fund established for its payment and that the municipality  
30 is not obligated to pay the principal or interest except from such trust fund.

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

33 The principal amount of any issue of refunding bonds issued pursuant to ~~G.S. 159-72~~  
34 ~~or G.S. 159-84~~, G.S. 159-72, 159-84, or 159-115 together with the principal amount of  
35 refunding bonds, if any, issued pursuant to this section in conjunction with a series of  
36 bonds issued under ~~G.S. 159-72 or G.S. 159-84~~, G.S. 159-72, 159-84, or 159-115 shall not  
37 exceed the sum of the following: (i) the principal amount of the obligations being  
38 refinanced, (ii) applicable redemption premiums thereon, (iii) unpaid interest on such  
39 obligations to the date of delivery or exchange of the refunding bonds, (iv) in the event  
40 the proceeds from the sale of the refunding bonds are to be deposited in trust as  
41 provided by ~~G.S. 159-72 or G.S. 159-84~~, G.S. 159-72, 159-84, or 159-115 interest to  
42 accrue on such obligations being refinanced from the date of delivery of the refunding  
43 bonds to the first or any subsequent available redemption date or dates selected, in its  
44 discretion, by the governing body of the unit of local government, or to the date or dates

1 of maturity, whichever shall be determined by the governing body of the unit of local  
 2 government to be most advantageous or necessary and (v) expenses, including bond  
 3 discount, deemed by the governing body to be necessary for the issuance of the  
 4 refunding bonds."

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

6 "(3) Revenue bonds, ~~including any refunding bonds issued pursuant to G.S.~~  
 7 ~~159-84, bonds~~ and special obligation bonds ~~issued pursuant to Chapter~~  
 8 ~~159I of the General Statutes.~~ bonds issued pursuant to Chapter 159I of  
 9 the General Statutes or pursuant to Article 6A of this Chapter,  
 10 including any refunding bonds issued pursuant to G.S. 159-84 and  
 11 G.S. 159-115."

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

13 **"§ 159-148. Contracts subject to Article; exceptions.**

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

- 24 (1) Extends for five or more years from the date of the contract, including  
 25 periods that may be added to the original term through the exercise of  
 26 options to renew or extend, and  
 27 (2) Obligates the unit to pay sums of money to another, without regard to  
 28 whether the payee is a party to the contract, and  
 29 (3) Obligates the unit over the full term of the contract, including periods  
 30 that may be added to the original term through the exercise of options  
 31 to renew or extend, to the extent of five hundred thousand dollars  
 32 (\$500,000) or a sum equal to one tenth of one percent (1/10 of 1%) of  
 33 the assessed value of property subject to taxation by the contracting  
 34 unit, whichever is less, and  
 35 (4) Obligates the unit, expressly or by implication, to exercise its power to  
 36 levy taxes either to make payments falling due under the contract, or to  
 37 pay any judgment entered against the unit as a result of the unit's  
 38 breach of the contract.

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

1 (b) This Article shall not apply to:

- 2 (1) Contracts between a unit of local government and the State of North  
3 Carolina or the United States of America (or any agency of either)  
4 entered into as a condition to the making of grants or loans to the unit  
5 of local government.  
6 (2) Contracts for the purchase, lease, or lease with option to purchase of  
7 motor vehicles or voting machines.  
8 (3) Loan agreements entered into by a unit of local government pursuant  
9 to the North Carolina Solid Waste Management Loan Program,  
10 Chapter 159I of the General Statutes."

11 Sec. 5. G.S. 159-165(a) reads as rewritten:

12 "(a) Bond anticipation notes of a municipality, including special obligation bond  
13 anticipation notes issued pursuant to Chapter 159I of the General Statutes, ~~Statutes or~~  
14 pursuant to Article 6A of this Chapter, shall be sold by the Commission at public or  
15 private sale according to such procedures as the Commission may prescribe. Bond  
16 anticipation notes of the State shall be sold by the State Treasurer at public or private  
17 sale, upon such terms and conditions, and according to such procedures as the State  
18 Treasurer may prescribe."

19 Sec. 6. Interpretation of act. (a) The foregoing sections of this act shall be  
20 deemed to provide an additional and alternative method for the doing of the things  
21 authorized by the act, shall be regarded as supplemental and additional to powers  
22 conferred by other laws, and shall not be regarded as in derogation of any powers now  
23 existing.

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

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

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

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

35 (f) References in this act to specific sections of the General Statutes are  
36 intended to be references to those sections as they may be amended from time to time  
37 by the General Assembly.

38 Sec. 7. This act is effective upon ratification.