

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2011

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SENATE BILL 426  
Finance Committee Substitute Adopted 5/10/11  
Finance Committee Substitute No. 2 Adopted 5/18/11

Short Title: Modify/Clarify Public Finance Statutes.

(Public)

Sponsors:

Referred to:

March 28, 2011

A BILL TO BE ENTITLED

AN ACT TO MAKE CLARIFICATIONS AND MODIFICATIONS TO THE PUBLIC FINANCE STATUTES OF NORTH CAROLINA FOR THE IMPROVEMENT OF VARIOUS FINANCING STRUCTURES AND THE TERMS AND PROVISIONS OF THE FINANCING STRUCTURES AND TO REMOVE THE SUNSET ON SPECIAL ASSESSMENTS FOR CRITICAL INFRASTRUCTURE NEEDS.

The General Assembly of North Carolina enacts:

**SECTION 1.** G.S. 159-28(a) reads as rewritten:

"(a) Incurring Obligations. – No obligation may be incurred in a program, function, or activity accounted for in a fund included in the budget ordinance unless the budget ordinance includes an appropriation authorizing the obligation and an unencumbered balance remains in the appropriation sufficient to pay in the current fiscal year the sums obligated by the transaction for the current fiscal year. No obligation may be incurred for a capital project or a grant project authorized by a project ordinance unless that project ordinance includes an appropriation authorizing the obligation and an unencumbered balance remains in the appropriation sufficient to pay the sums obligated by the transaction. If an obligation is evidenced by a contract or agreement requiring the payment of money or by a purchase order for supplies and materials, the contract, agreement, or purchase order shall include on its face a certificate stating that the instrument has been preaudited to assure compliance with this ~~subsection~~ subsection unless the obligation or a document related to the obligation has been approved by the Local Government Commission, in which case no certificate shall be required.

The certificate, which shall be signed by the finance officer or any deputy finance officer approved for this purpose by the governing board, shall take substantially the following form:

"This instrument has been preaudited in the manner required by the Local Government Budget and Fiscal Control Act.

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(Signature of finance officer)."

Certificates in the form prescribed by G.S. 153-130 or 160-411 as those sections read on June 30, 1973, or by G.S. 159-28(b) as that section read on June 30, 1975, are sufficient until supplies of forms in existence on June 30, 1975, are exhausted.

An obligation incurred in violation of this subsection is invalid and may not be enforced. The finance officer shall establish procedures to assure compliance with this subsection."

**SECTION 2.** G.S. 159-54 reads as rewritten:

"§ 159-54. The bond order.



1 After or at the same time the application is filed ~~and accepted for submission to~~ with the  
2 Commission, a bond order shall be introduced before the governing board of the issuing unit.  
3 The bond order shall state:

- 4 (1) Briefly and generally and without specification of location or material of  
5 construction, the purpose for which the bonds are to be issued, but not more  
6 than one purpose may be stated. For funding or refunding bonds a brief  
7 description of the debt, judgment, or obligation to be funded or refunded  
8 shall be sufficient.
- 9 (2) The maximum aggregate principal amount of the bonds.
- 10 (3) That taxes will be levied in an amount sufficient to pay the principal and  
11 interest of the bonds.
- 12 (4) The extent, if any, to which utility or enterprise revenues are, or may be,  
13 pledged to payment of interest on and principal of the bonds pursuant to  
14 G.S. 159-47.
- 15 (5) That a sworn statement of debt has been filed with the clerk and is open to  
16 public inspection.
- 17 (6) If the bonds are to be approved by the voters, that the bond order will take  
18 effect when approved by the voters.
- 19 (7) If the bonds are issued pursuant to G.S. 159-48(a)(1), (2), (3), or (5), that the  
20 bond order will take effect upon its adoption. If the bonds are to be issued  
21 pursuant to G.S. 159-48(a)(4), (6), or (7) or G.S. 159-48(b), (c), or (d) and  
22 are not to be submitted to the voters, that the bond order will take effect 30  
23 days after its publication following adoption, unless it is petitioned to a vote  
24 of the people as provided in G.S. 159-60, and that in that event the order will  
25 take effect when approved by the voters.

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

28 **SECTION 3.** G.S. 159-88(a) reads as rewritten:

29 "(a) At any time after an application is filed with the Commission ~~approves an~~  
30 ~~application~~ for the issuance of revenue bonds, (i) in the case of the State, the Council of State  
31 and (ii) in the case of a municipality, the governing board of the municipality may adopt a  
32 revenue bond order pursuant to this Article."

33 **SECTION 4.(a)** Section 5 of S.L. 2008-165 reads as rewritten:

34 "**SECTION 5.** This act is effective when it becomes law. ~~Sections 2 and 3 of this act expire~~  
35 ~~July 1, 2013. The expiration does not affect the validity of assessments imposed or bonds~~  
36 ~~issued or authorized under the provisions of this act prior to the effective date of the~~  
37 ~~expiration.~~"

38 **SECTION 4.(b)** G.S. 153A-210.1 reads as rewritten:

39 "Article 9A.

40 "Special Assessments for Critical Infrastructure Needs.

41 "**§ 153A-210.1. Purpose.**~~Purpose and sunset.~~

42 (a) Purpose. – This Article enables counties that face increased demands for  
43 infrastructure improvements as a result of rapid growth and development to issue revenue  
44 bonds payable from special assessments imposed under this Article on benefited property. This  
45 Article supplements the authority counties have in Article 9 of this Chapter. The provisions of  
46 Article 9 of this Chapter apply to this Article, to the extent they do not conflict with this  
47 Article.

48 (b) Sunset. – This Article expires July 1, 2016. The expiration does not affect the  
49 validity of assessments imposed or bonds issued or authorized under the provisions of this  
50 Article prior to its expiration."

51 **SECTION 4.(c)** G.S. 160A-239.1 reads as rewritten:

"Article 10A.

"Special Assessments for Critical Infrastructure Needs.

**"§ 160A-239.1. Purpose, Purpose and sunset.**

(a) Purpose. – This Article enables cities that face increased demands for infrastructure improvements as a result of rapid growth and development to issue revenue bonds payable from special assessments imposed under this Article on benefited property. This Article supplements the authority cities have in Article 10 of this Chapter. The provisions of Article 10 of this Chapter apply to this Article, to the extent they do not conflict with this Article.

(b) Sunset. – This Article expires July 1, 2016. The expiration does not affect the validity of assessments imposed or bonds issued or authorized under the provisions of this Article prior to its expiration."

**SECTION 5.** If any provision of this act or its application is held invalid, the invalidity does not affect the other provisions or applications of this act that can be given effect without the invalid provisions or applications, and to this end the provisions of this act are severable.

**SECTION 6.** This act is effective when it becomes law.