

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1989

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HOUSE BILL 1286

Short Title: Highway Trust Fund Bonds.

(Public)

Sponsors: Representatives L. Etheridge, Huffman, Pope, and Sizemore.

Referred to: Infrastructure.

April 12, 1989

A BILL TO BE ENTITLED

1 AN ACT TO AUTHORIZE THE ISSUANCE OF ONE BILLION DOLLARS OF
2 GENERAL OBLIGATION BONDS OF THE STATE, SUBJECT TO A VOTE OF
3 THE QUALIFIED VOTERS OF THE STATE, TO PROVIDE FUNDS FOR THE
4 NORTH CAROLINA HIGHWAY TRUST FUND.
5

6 The General Assembly of North Carolina enacts:

7 Section 1. **Short title.** This act shall be known and may be cited as the
8 "State Highway Trust Fund Bond Act of 1989."

9 Sec. 2. **Authorization of bonds.** Subject to a favorable vote of a majority of
10 the qualified voters of the State who shall vote thereon in an election called and held as
11 hereinafter provided, the State Treasurer is authorized, by and with the consent of the
12 Council of State to be designated "State of North Carolina Highway Trust Fund
13 Bonds"(herein sometimes called the "bonds") in an aggregate principal amount not
14 exceeding one billion dollars (\$1,000,000,000) for the purpose of providing funds, with
15 any other available funds, for the uses hereinafter authorized in this act.

16 Sec. 3. **Uses of bond and notes proceeds.** The proceeds of the bonds and
17 any notes may be used for constructing and improving, including designing, highway
18 facilities constituting at the time of such construction and improving a part of the State
19 primary and urban system of highways. The particular projects to be financed in whole
20 or in part from such proceeds shall be for the North Carolina Highway Trust Fund upon
21 the establishment of such fund by the North Carolina General Assembly. If such fund is
22 not established, the particular projects to be financed in whole or in part from such
23 proceeds shall be determined from time to time by the North Carolina Board of
24 Transportation.

1 Such proceeds are hereby appropriated for the State highway purposes herein
2 authorized, which appropriations shall be in addition to all other appropriations
3 heretofore made or which may be made at the session of the General Assembly at which
4 this act is ratified and shall be expended and disbursed under the direction and
5 supervision of the Director of the Budget. The funds appropriated by this act shall be
6 disbursed for the purposes provided in this act upon warrants drawn by the State
7 Comptroller, which warrants shall not be drawn until requisition has been approved by
8 the Director of the Budget and which requisition shall be approved only after full
9 compliance with the Executive Budget Act, Article 1 of Chapter 143 of the General
10 Statutes. Any additional moneys which may be received by means of a grant or grants
11 from the United States of America or any agency or department thereof or from any
12 other source to aid in financing the cost of any project authorized by this act may be
13 placed by the State Treasurer in the same fund or in a separate fund and, shall be
14 disbursed, to the extent permitted by the terms of such grant or grants, without regard to
15 any limitations imposed by this act.

16 The proceeds of the bonds and notes herein authorized, including premium
17 thereon, if any, except the proceeds of bonds the issuance of which has been anticipated
18 by such bond anticipation notes or the proceeds of refunding bonds or notes, shall be
19 placed by the State Treasurer in a special fund known as the "North Carolina Highway
20 Trust Fund" and shall be disbursed as herein provided.

21 Sec. 4. **Election.** The question of the issuance of the one billion dollars
22 (\$1,000,000,000) State of North Carolina Bonds authorized by this act shall be
23 submitted to the qualified voters of the State at an election to be held on November 7,
24 1989. Any other primary, election or referendum validly called or scheduled by law at
25 the time the election provided for in this section is called may be held as called or
26 scheduled. Notice of the bond election shall be given by publication twice in a
27 newspaper or newspapers having a general circulation in each county in the State, and
28 the election the registration of voters therefor shall be held under and in accordance with
29 the general laws of the State. Absentee ballots shall be authorized in said election. The
30 State Board of Elections shall reimburse the counties of the State for all necessary
31 expenses incurred in holding said election and the registration therefor, the same to be
32 paid out of the State Highway Funds, unless the payment of such expenses is otherwise
33 provided for. Voting machines may be used in accordance with the rules and
34 regulations prescribed by the State Board of Elections. The State Board of Elections
35 may also cause to be printed and distributed, to the extent necessary, ballots for use in
36 the bond election. The question to be used in the voting machines and ballots shall be in
37 substantially the following form:

38 " **FOR** the issuance of one billion dollars (\$1,000,000,000) State of
39 North Carolina Highway Bonds constituting general obligation bonds
40 of the State."

41 " **AGAINST** the issuance of one billion dollars (\$1,000,000,000)
42 State of North Carolina Highway Bonds constituting general
43 obligation bonds of the State."

1 If a majority of those voting thereon in the election shall vote in favor of the
2 issuance of the bonds, the bonds may be issued as hereinbefore provided. If a majority
3 of those voting thereon in the election shall vote against the issuance of the bonds, the
4 bonds shall not be issued.

5 The result of the election shall be canvassed and declared as provided by law
6 for the holding of elections for State officers and the result thereof certified by the State
7 Board of Elections to the Secretary of State, in the manner and at the time provided by
8 the general election laws of the State.

9 **Sec. 5. Issuance of bonds and notes.** (a) Terms and Conditions.—The bonds
10 shall bear such date or dates, shall be serial or term bonds, shall mature in such amounts
11 and at such times, not exceeding 40 years from their date or dates, shall be payable at
12 such place or places, either within or without the United States, in such coin or currency
13 of the United States of America as at the time of payment is legal tender for payment of
14 public and private debts, shall bear interest at such rate or rates, which may vary from
15 time to time, and may be made redeemable before maturity, at the option of the State or
16 otherwise as may be provided by the State, at such price or prices and under such terms
17 and conditions, all as may be fixed by the State Treasurer with the consent of the
18 Council of State.

19 (b) Signatures; form and denomination; registration.—The bonds may be issued as
20 certificated or uncertificated obligations. If issued as certificated obligations, the bonds
21 shall be signed on behalf of the State by the Governor or shall bear his facsimile
22 signature, shall be signed by the State Treasurer or shall bear his facsimile signature,
23 and shall bear the Great Seal of the State or a facsimile thereof shall be impressed or
24 imprinted thereon. If the bonds shall bear the facsimile signatures of the Governor and
25 the State Treasurer, the bonds shall also bear a manual signature which may be that of a
26 bond registrar, trustee, paying agent or designated assistant of the State Treasurer.
27 Should any officer whose signature or facsimile signature appears on any bonds cease to
28 be such officer before the delivery of the bonds, such signature or facsimile signature
29 shall nevertheless have the same validity for all purposes as if the officer had remained
30 in office until delivery and any bond may bear the facsimile signatures of such persons
31 who at the actual time of the execution of such bond shall be the proper officers to sign
32 any bond although at the date of such bond such persons may not have been such
33 officers. The form and denomination of the bonds, including the provisions with
34 respect to registration of the bonds and any system for their registration, shall be as the
35 State Treasurer may determine in conformity with this act; provided, however, that
36 nothing in this act shall prohibit the State Treasurer from proceeding, with respect to the
37 issuance and form of the bonds, under the provisions of the Registered Public
38 Obligations Act as well as this act.

39 (c) Manner of sale; expenses.—Subject to determination by the Council of State as
40 to the manner in which the bonds shall be offered for sale, whether at public or private
41 sale and whether within or without the United States and whether by publishing notice
42 in certain newspapers and financial journals, mailing notices, inviting bids by
43 correspondence, negotiating contracts of purchase or otherwise, the State Treasurer is
44 authorized to sell the bonds, at one time or from time to time at such price as the State

1 Treasurer may determine to be in the best interests of the State, including a price less
2 than the face amount of the bonds. All expenses incurred in the preparation, sale and
3 issuance of the bonds and any notes shall be paid by the State Treasurer from the
4 proceeds of any such bonds and notes or any available moneys.

5 Nothing in this act shall restrict the use of any bond or note proceeds in
6 payment of the cost of any bond insurance or bond credit and liquidity facilities
7 employed in connection with such bonds or notes, including without limitation, letters
8 of credit, lines of credit and standby bond purchase agreements.

9 (d)(1) Notes; repayment.—By and with the consent of the Council of State,
10 the State Treasurer is hereby authorized to borrow money at such
11 rate or rates of interest as the State Treasurer may determine to be in
12 the best interests of the State, which may vary from time to time, and
13 to execute and issue notes of the State for the same, but only in the
14 following circumstances and under the following conditions:

- 15 a. For anticipating the sale of any bonds to the issuance of which
16 the Council of State shall have given consent, if the State
17 Treasurer shall deem it advisable to postpone the issuance of
18 such bonds;
- 19 b. For the payment of interest on or any installment of principal of
20 any of the bonds then outstanding, if there shall be sufficient
21 funds in the State Treasury with which to pay the interest or
22 installment of principal as they respectively become due; and
- 23 c. For the renewal of any loan evidenced by notes herein
24 authorized.

25 (2) Funds derived from the sale of bonds may be used in the payment of
26 any bond anticipation notes issued under this act. Funds provided by
27 the General Assembly for the payment of interest on or principal of
28 bonds shall be used in paying the interest on or principal of any notes
29 and any renewals thereof, the proceeds of which shall have been used
30 in paying interest on or principal of the bonds.

31 (e) Refunding bonds and notes.—By and with the consent of the Council of
32 State, the State Treasurer is authorized to issue and sell, pursuant to the provisions of
33 the State Refunding Bond Act, bonds or notes for the purpose of refunding any bonds or
34 notes issued pursuant to this act. Such refunding bonds or notes may be combined with
35 other issues of State bonds or notes similarly secured.

36 (f) Tax exemption.—All of the bonds and notes authorized by this act and
37 their transfer (including any profit made on the sale thereof) shall be exempt from all
38 State, county, and municipal taxation or assessment, direct or indirect, general or
39 special, whether imposed for the purpose of general revenue or otherwise, including
40 inheritance and gift taxes, and the interest on the bonds and notes shall not be subject to
41 taxation as to income, nor shall the bonds or notes be subject to taxation when
42 constituting a part of the surplus of any bank, trust company or other corporation.

43 (g) Investment eligibility.—Bonds or notes issued under the provisions of this
44 act are hereby made securities in which all public officers, agencies and public bodies of

1 the State and its political subdivisions, all insurance companies, trust companies,
2 investment companies, banks, savings banks, building and loan associations, credit
3 unions, pension or retirement funds, other financial institutions engaged in business in
4 the State, executors, administrators, trustees and other fiduciaries may properly and
5 legally invest funds, including capital in their control or belonging to them. Such bonds
6 or notes are hereby made securities which may properly and legally be deposited with
7 and received by any officer or agency of the State or political subdivision of the State
8 for any purpose for which the deposit of bonds, notes or obligations of the State or any
9 political subdivision is now or may hereafter be authorized by law.

10 (h) Faith and credit.—The faith and credit and taxing power of the State are
11 hereby pledged for the payment of the principal of and the interest on the general
12 obligation bonds and notes herein authorized.

13 Sec. 6. **Variable interest rates.** In fixing the details of bonds or notes, the
14 State Treasurer may provide that any of the bonds or notes:

- 15 (1) May be made payable from time to time on demand or tender for
16 purchase by the owner thereof provided a Credit Facility (as defined in
17 this section) supports such bonds or notes, unless the State Treasurer
18 specifically determines that a Credit Facility is not required upon a
19 finding and determination by the State Treasurer that the absence of a
20 Credit Facility will not materially and adversely affect the financial
21 position of the State and the marketing of the bonds or notes at a
22 reasonable interest cost to the State;
- 23 (2) May be additionally supported by a Credit Facility;
- 24 (3) May be made subject to redemption prior to maturity with such
25 variations as may be permitted in connection with a Par Formula (as
26 defined in this section);
- 27 (4) May bear interest at a rate or rates that may vary for such period or
28 periods of time, all as may be provided in the proceedings providing
29 for the issuance of such bonds or notes, including, without limitation,
30 such variations as may be permitted pursuant to a Par Formula; and
- 31 (5) May be made the subject of a remarketing agreement whereby an
32 attempt is made to remarket the bonds or notes to new purchasers prior
33 to their presentment for payment to the provider of the Credit Facility
34 or to the State.

35 As used in this section, the following terms shall have the following
36 meanings:

- 37 (1) "Credit Facility" means an agreement entered into by the State
38 Treasurer on behalf of the State with bank, savings and loan
39 association or other banking institution, an insurance company,
40 reinsurance company, surety company or other insurance institution, a
41 corporation, investment banking firm or other investment institution,
42 or any financial institution providing for prompt payment of all or any
43 financial institution providing for prompt payment of all or any part of
44 the principal (whether at maturity, presentment or tender for purchase,

1 redemption or acceleration), redemption premium, if any, and interest
2 on any bonds or notes payable on demand or tender by the owner, in
3 consideration of the State agreeing to repay the provider of such Credit
4 Facility in accordance with the terms and provisions of such
5 agreement; the provider of such Credit Facility may be located within
6 or without the United States.

7 (2) " Par Formula" shall mean any provision or formula adopted by the
8 State to provide for the adjustment, from time to time, of the interest
9 rate or rates borne by any bonds or notes, including:

- 10 a. A provision providing for such adjustment so that the purchase
11 price of such bonds or notes in the open market would be as
12 close to par as possible,
13 b. A provision providing for such adjustment based upon a
14 percentage or percentages of a prime rate or base rate, which
15 percentage or percentages may vary or be applied for different
16 periods of time, or
17 c. Such other provision as the State Treasurer may determine to be
18 consistent with this act and will not materially and adversely
19 affect the financial position of the State and the marketing of
20 the bonds or notes at a reasonable interest cost to the State.

21 If the aggregate principal amount repayable by the State under a related
22 Credit Facility is in excess of the aggregate principal amount of bonds or notes secured
23 by such related Credit Facility of a provision for the payment of interest for a limited
24 period of time or the payment of a redemption premium or for any other reason, then the
25 amount of authorized but unissued bonds or notes during the term of such Credit
26 Facility shall not be less than the amount of such excess, unless the payment of such
27 excess is otherwise provided for by agreement of the State executed by the State
28 Treasurer.

29 Sec. 7. Interpretation of act.

30 (a) The foregoing sections of this act shall be deemed to provide an additional
31 and alternative method for the doing of the things authorized thereby and shall be
32 regarded as supplemental and additional to powers conferred by other laws, and shall
33 not be regarded as in derogation of any powers not existing.

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

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

38 (d) If any provision of this act or the application thereof to any person or
39 circumstance is held invalid, such invalidity shall not affect other provisions or
40 applications of the act which can be given effect without the invalid provision or
41 application, and to this end the provisions of this act are declared to be severable.

42 Sec. 8. This act is effective upon ratification.