

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005**

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HOUSE BILL 1117

Short Title: Public Finance Changes.

(Public)

Sponsors: Representatives Ross; and Howard.

Referred to: Judiciary I.

April 5, 2005

1 A BILL TO BE ENTITLED
2 AN ACT TO MAKE CHANGES TO STATE AND LOCAL GOVERNMENT
3 FINANCE LAWS.

4 The General Assembly of North Carolina enacts:

5 **SECTION 1.** G.S. 158-7.3(c) reads as rewritten:

6 "(c) Development Financing District. – A development financing district created
7 pursuant to this section must be comprised of property that is one or more of the
8 following:

- 9 (1) Blighted, deteriorated, deteriorating, undeveloped, or inappropriately
10 developed from the standpoint of sound community development and
11 growth.
12 (2) Appropriate for rehabilitation or conservation activities.
13 (3) Appropriate for the economic development of the community.

14 The total land area within development financing districts in a unit, including
15 development financing districts created pursuant to G.S. 160A-515.1, may not exceed
16 five percent (5%) of the total land area of the unit. For the purposes of this section, land
17 in a district created by a county that subsequently becomes part of a city, town, or
18 incorporated village does not count against the five-percent (5%) limit for the city,
19 town, or incorporated village unless the city, town, or incorporated village and the
20 county have entered into an agreement pursuant to G.S. 159-107(e). A county may not
21 include in a district created pursuant to this section any land that, at the time the district
22 is created, is inside a city, town, or incorporated village."

23 **SECTION 2.** G.S. 159-29(a) reads as rewritten:

24 "(a) The finance officer shall give a true accounting and faithful performance
25 bond with sufficient sureties in an amount to be fixed by the governing board, not less
26 than ~~ten thousand dollars (\$10,000) nor more than two hundred fifty thousand dollars~~
27 ~~(\$250,000).~~ fifty thousand dollars (\$50,000). The premium on the bond shall be paid by
28 the local government or public authority."

1 **SECTION 3.** Article 4 of Chapter 159 of the General Statutes is amended by
2 adding a new section to read:

3 **"§ 159-68. Certain provisions not applicable to refunding bonds.**

4 The provisions of G.S. 159-56 and the provisions of this Article related to the
5 holding of a public hearing prior to the adoption of the bond order do not apply to
6 refunding bonds issued by a unit of local government so long as the refunding bonds do
7 not extend the final maturity of the debt or obligation to be refunded and so long as the
8 aggregate debt service over the life of the refunding bonds is less than the aggregate
9 debt service on the debt or obligation to be refunded. When the conditions of this
10 section are satisfied, a unit of local government may introduce a bond order, adopt a
11 bond order, and adopt a sale resolution with respect to refunding bonds in one or more
12 meetings of the unit's governing body."

13 **SECTION 4.** G.S. 159-83(a)(5) reads as rewritten:

14 "(5) To borrow money for the purpose of acquiring, constructing,
15 reconstructing, extending, bettering, improving, or otherwise paying
16 the cost of revenue bond projects, ~~and to issue its revenue bonds or~~
17 ~~bond anticipation notes therefor, in the name of the State or a~~
18 ~~municipality, as the case may be, but no encumbrance, mortgage, or~~
19 ~~other pledge or real property of the State or a municipality may be~~
20 ~~created in any manner and to pledge, mortgage, or grant a security~~
21 ~~interest in all or a portion of the real and personal property comprising~~
22 ~~the utility or public enterprise facility or system acquired, constructed,~~
23 ~~reconstructed, extended, bettered, or improved with the proceeds of the~~
24 ~~borrowing. Property subject to a mortgage, deed of trust, security~~
25 ~~interest, or similar lien pursuant to this section may be sold at~~
26 ~~foreclosure in any manner permitted by the instrument creating the~~
27 ~~encumbrance, without compliance with any other provision of law~~
28 ~~regarding the disposition of publicly owned property."~~

29 **SECTION 5.** G.S. 159-107(e) reads as rewritten:

30 "(e) Increment Agreements. – Effect of Annexation on District Established by a
31 County. – If a city annexes land in a development financing district established by a
32 county pursuant to G.S. 158-7.3, the proceeds of all taxes levied by the city on property
33 within the district shall be paid to the city unless the city enters into an agreement with
34 the county pursuant to this ~~subsection~~, and the annexed land in the county's
35 district that subsequently becomes a part of the city does not count against the city's
36 five-percent (5%) limit under G.S. 158-7.3 or G.S. 160A-515.1 unless the city and the
37 county enter into an agreement pursuant to this section. The city and the county may
38 enter into an increment agreement under which the city agrees that city taxes on part or
39 all of the incremental valuation in the district shall be paid into the revenue increment
40 fund for the district. An increment agreement may be entered into when the district is
41 established or at any time after the district is established. The increment agreement may
42 extend for the duration of the district or for a shorter time agreed to by the parties."

43 **SECTION 6.** G.S. 159-111(b) reads as rewritten:

1 "(b) In order to provide additional security for debt instruments issued pursuant to
2 this Article, and in lieu of pledging its faith and credit for that purpose pursuant to
3 subsection (a) of this section, a unit of local government may ~~agree to apply to the~~
4 ~~payment of the instruments~~ pledge or grant a security interest in any available sources of
5 revenues of the unit, including special assessments against property within the
6 development financing district made by the unit pursuant to Article 9 of Chapter 153A
7 of the General Statutes or Article 10 of Chapter 160A of the General Statutes, as long as
8 ~~the agreement to use the sources to make payment~~ doing so does not constitute a pledge
9 of the unit's taxing ~~power or of the unit's revenues derived from local sales taxes.~~ power.
10 In addition, to the extent the generation of the revenues is within the power of the unit,
11 the unit may enter into covenants to take action in order to generate the revenues, as
12 long as the covenant does not constitute a pledge of the unit's taxing power. In addition,
13 the unit may pledge, mortgage, or grant a security interest in all or a portion of the real
14 and personal property being financed or improved with the proceeds of the project
15 development financing debt instrument."

16 **SECTION 7.** G.S. 159-125 reads as rewritten:

17 **"§ 159-125. Bid instructions; bid deposit.**

18 (a) Except for revenue bonds, no bid for less than the ninety-eight percent (98%)
19 of the face value of the bonds plus one hundred percent (100%) of accrued interest may
20 be entertained.

21 Different rates of interest may be bid for bonds maturing in different ~~years, but years~~
22 and different rates of interest may ~~not~~ be bid for bonds maturing in the same ~~year-year~~
23 unless the Secretary of the Commission requires one interest rate per maturity in
24 connection with the sale of the bonds. This subsection applies to public sale of bonds
25 only.

26 (b) ~~Each bid shall be~~ The Secretary of the Commission may require that bids be
27 accompanied by a bid deposit equal to two percent (2%) of the aggregate principal
28 amount of the bond issue. The in an amount prescribed by the Secretary of the
29 Commission or may determine that no bid deposit is required. If required, the bid
30 deposit shall be made in a form approved by the Secretary of the Commission, and shall
31 secure the issuing unit against loss resulting from the bidder's failure to comply with the
32 terms of the bid. his bid. This subsection shall not apply to bids entered by a State or
33 federal agency.

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

37 **SECTION 8.** G.S. 159-127 reads as rewritten:

38 **"§ 159-127. Award of bonds.**

39 All bids received pursuant to a public sale shall be opened in public on a date and at
40 a time and place to be specified in the notice of sale. ~~The bond~~ Bonds sold at public sale
41 shall be awarded to the bidder offering to purchase the bonds at the lowest interest cost
42 to the issuing unit. In calculating such interest cost, the amount of any premium bid
43 shall be deducted from the aggregate amount of interest on the entire issue until

1 ~~maturity~~-unit calculated in the manner established by the Secretary of the Commission
2 in the notice of sale."

3 **SECTION 9.** G.S. 159-139 reads as rewritten:

4 "**§ 159-139. Destruction of cancelled bonds, notes, and coupons.**

5 (a) All cancelled bonds, notes, and interest coupons of a unit may be destroyed in
6 one of the following ways, in the discretion of the governing board:

7 (1) Method 1. – The finance officer shall make an entry in ~~a substantially~~
8 ~~bound book kept by him for the purpose of recording the destruction of~~
9 ~~bonds, notes, and coupons, showing~~ the official records of the unit,
10 which may include the register for the bonds, notes, and coupons,
11 showing:

12 a. With respect to bonds and notes, the purpose of issuance, the
13 date of issue, serial numbers (if any), denomination, maturity
14 date, and total principal amount.

15 b. With respect to coupons, the purpose of issue and date of the
16 bonds to which the coupons appertain, the maturity date of the
17 coupons and, as to each maturity date, the denomination,
18 quantity, and total amount of coupons.

19 After this entry has been made, the paid bonds, notes, and coupons
20 shall be destroyed or marked cancelled in the manner determined by
21 the finance officer, who shall make an entry of the destruction or
22 cancellation in the official records of the unit. ~~by either burning or~~
23 ~~shredding, in the presence of the mayor or chairman of the governing~~
24 ~~board, the finance officer, the unit's attorney, and the clerk to the~~
25 ~~governing board, or any three of them, each of whom shall certify~~
26 ~~under his hand in the book kept by the finance officer that he saw the~~
27 ~~bonds and coupons destroyed.~~ Cancelled bonds, notes, or coupons
28 shall not be destroyed until after one year from the date of payment.

29 (2) Method 2. – The governing board may contract with the bank, trust
30 company or other person acting as fiscal agent for a bond issue for the
31 destruction of bonds and interest coupons which have been cancelled
32 by the fiscal agent. The contract shall require that the fiscal agent give
33 the unit a written certificate of each destruction containing the same
34 information required by Method 1 to be entered in the record of
35 destroyed bonds and coupons. The certificates shall be filed among the
36 permanent records of the finance officer's office. Cancelled bonds or
37 coupons shall not be destroyed until one year from the date of
38 payment.

39 (b) The provisions of G.S. 121-5 and G.S. 132-3 ~~shall do not~~ apply to paid bonds,
40 notes, and coupons. The information required to be ~~entered in a substantially bound~~
41 ~~book recorded~~ prior to destruction under either Method 1 or Method 2 may as an
42 alternative, be shown by photocopying, microfilming or other similar method of
43 recording the information by directly reproducing the cancelled documents."

44 **SECTION 10.** G.S. 159C-3(15a) reads as rewritten:

1 "**§ 159C-3. Definitions.**

2 The following definitions apply in this Chapter:

3 ...

4 (15a) Special purpose project. – Any structure, equipment, or other facility
5 for any one or more of the following purposes:

- 6 a. Water systems or facilities, including all plants, works,
7 instrumentalities, and properties used or useful in obtaining,
8 conserving, treating, and distributing water for domestic or
9 industrial use, irrigation, sanitation, fire protection, or any other
10 public or private use.
- 11 b. Sewage disposal systems or facilities, including all plants,
12 works, instrumentalities, and properties used or useful in the
13 collection, treatment, purification, or disposal of sewage, other
14 than facilities constituting a water pollution control facility.
- 15 c. Public transportation systems, facilities, or equipment,
16 including bus, truck, ferry, and railroad terminals, depots,
17 trackage, vehicles, and ferries, and mass transit systems.
- 18 d. Public parking lots, areas, garages, and other public vehicular
19 parking structures and facilities.
- 20 e. Public auditoriums, gymnasiums, stadiums, and convention
21 centers.
- 22 f. ~~Recreational facilities-facilities, including museums.~~
- 23 g. Land, equipment, and facilities for the disposal, treatment, or
24 recycling of solid or other waste that are described in
25 G.S. 159I-8.
- 26 h. Facilities for the provision of rehabilitation services, education,
27 training, and employment opportunities for persons with
28 disabilities and the disadvantaged. The term does not include a
29 retail facility, however, unless the proposed operator of the
30 facility certifies that at least seventy-five percent (75%) of its
31 employees will be disadvantaged or disabled persons and at
32 least seventy-five percent (75%) of its inventory will be
33 composed of used, donated items and items manufactured by
34 disadvantaged or disabled persons."

35 **SECTION 11.** G.S. 159G-18(a) reads as rewritten:

36 "(a) Applicants may execute debt instruments payable to the State in order to
37 obtain revolving loans provided for in this Chapter. Applicants shall pledge as security
38 for such obligations the user fee revenues derived from operation of the benefited
39 facilities or systems ~~only-only~~; or other sources of ~~revenue,revenue~~; or their faith and
40 ~~credit,credit~~; or a ~~mortgage, deed of trust, security interest, or similar lien on all or a~~
41 portion of the real and personal property comprising the utility or public enterprise
42 facility or system acquired, constructed, reconstructed, extended, bettered, or improved
43 with the proceeds of the borrowing; or any combination thereof. The faith and credit of
44 applicants that are local government units shall not be pledged or be deemed to have

1 been pledged unless the requirements of Article 4, Chapter 159 of the General Statutes
2 have been met. The State Treasurer, with the assistance of the Local Government
3 Commission, shall develop and adopt appropriate debt instruments for use by applicants
4 under this Chapter. The Local Government Commission shall develop and adopt
5 appropriate procedures for the delivery of debt instruments by applicants to the State
6 without any public bidding therefor."

7 **SECTION 12.** G.S. 160A-515.1(b) reads as rewritten:

8 "(b) Development Financing District. – A development financing district shall
9 comprise all or portions of one or more redevelopment areas defined pursuant to this
10 Article. The total land area within development financing districts in a city, including
11 development financing districts created pursuant to G.S. 158-7.3, may not exceed five
12 percent (5%) of the total land area of the city. For purposes of this section, land in a
13 district created by a county that subsequently becomes part of a city does not count
14 against the city's five-percent (5%) limit unless the city and the county have entered into
15 an agreement pursuant to G.S. 159-107(e)."

16 **SECTION 13.** This act is effective when it becomes law.