

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2011

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HOUSE BILL 491

Short Title: NC Certificates of Participation Referendum. (Public)

Sponsors: Representatives R. Brown and Cleveland (Primary Sponsors).
For a complete list of Sponsors, see Bill Information on the NCGA Web Site.

Referred to: Finance.

March 29, 2011

1 A BILL TO BE ENTITLED
2 AN ACT TO REQUIRE A VOTE OF THE PEOPLE FOR THE STATE OF NORTH
3 CAROLINA TO ISSUE CERTIFICATES OF PARTICIPATION.

4 The General Assembly of North Carolina enacts:

5 **SECTION 1.** Section 3 of Article V of the North Carolina Constitution reads as
6 rewritten:

7 "**Sec. 3. Limitations upon the increase of State debt.**

8 (1) Authorized purposes; two-thirds limitation. The General Assembly shall have no
9 power to contract debts secured by a pledge of the faith and credit of the State, unless approved
10 by a majority of the qualified voters of the State who vote thereon, except for the following
11 purposes:

- 12 (a) to fund or refund a valid existing debt;
13 (b) to supply an unforeseen deficiency in the revenue;
14 (c) to borrow in anticipation of the collection of taxes due and payable within
15 the current fiscal year to an amount not exceeding 50 per cent of such taxes;
16 (d) to suppress riots or insurrections, or to repel invasions;
17 (e) to meet emergencies immediately threatening the public health or safety, as
18 conclusively determined in writing by the Governor;
19 (f) for any other lawful purpose, to the extent of two-thirds of the amount by
20 which the State's outstanding indebtedness shall have been reduced during
21 the next preceding biennium.

22 (1a) Certificates of Participation. The General Assembly shall have no power to
23 authorize the State to purchase, or finance or refinance the purchase of, real property by
24 installment contracts that create in some or all of the property purchased a security interest to
25 secure payment of the purchase price to the seller or to an individual or entity advancing
26 moneys or supplying financing for the purchase transaction, unless approved by a majority of
27 the qualified voters of the State who vote thereon at an election held at the same time as the
28 general election for members of the General Assembly. This subsection also applies to the
29 financing of improvements to real property.

30 (2) Gift or loan of credit regulated. The General Assembly shall have no power to give
31 or lend the credit of the State in aid of any person, association, or corporation, except a
32 corporation in which the State has a controlling interest, unless the subject is submitted to a
33 direct vote of the people of the State, and is approved by a majority of the qualified voters who
34 vote thereon.



1 (3) Definitions. A debt is incurred within the meaning of this Section when the State
2 borrows money. A pledge of the faith and credit within the meaning of this Section is a pledge
3 of the taxing power. A loan of credit within the meaning of this Section occurs when the State
4 exchanges its obligations with or in any way guarantees the debts of an individual, association,
5 or private corporation.

6 (4) Certain debts barred. The General Assembly shall never assume or pay any debt or
7 obligation, express or implied, incurred in aid of insurrection or rebellion against the United
8 States. Neither shall the General Assembly assume or pay any debt or bond incurred or issued
9 by authority of the Convention of 1868, the special session of the General Assembly of 1868,
10 or the General Assemblies of 1868-69 and 1869-70, unless the subject is submitted to the
11 people of the State and is approved by a majority of all the qualified voters at a referendum
12 held for that sole purpose.

13 (5) Outstanding debt. Except as provided in subsection (4), nothing in this Section shall
14 be construed to invalidate or impair the obligation of any bond, note, or other evidence of
15 indebtedness outstanding or authorized for issue as of July 1, 1973."

16 **SECTION 2.** The amendment set out in Section 1 of this act shall be submitted to
17 the qualified voters of the State at the statewide general election on November 6, 2012, which
18 election shall be conducted under the laws then governing elections in the State. Ballots,
19 voting systems, or both may be used in accordance with Chapter 163 of the General Statutes.
20 The question to be used in the voting systems and ballots shall be:

21 " FOR AGAINST

22 Constitutional amendment providing that a vote of the people is required for the
23 State to finance the purchase of real property or the construction of buildings or other
24 improvements where the property is pledged to secure payment."

25 **SECTION 3.** If a majority of votes cast on the question are in favor of the
26 constitutional amendment set out in this act, the State Board of Elections shall certify the
27 amendment to the Secretary of State. The constitutional amendment is effective upon
28 certification. The Secretary of State shall enroll the amendments so certified among the
29 permanent records of that office.

30 **SECTION 4.** This act is effective when it becomes law.