

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
House Committee Substitute Favorable 6/19/12

Short Title: Public Finance Laws/Municipal Service Dist.

(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 AUTHORIZE A RESOLUTION ESTABLISHING A MUNICIPAL SERVICE DISTRICT TO BECOME EFFECTIVE UPON A DATE SPECIFIED IN THE RESOLUTION IF SPECIAL OBLIGATION BONDS ARE ANTICIPATED TO BE AUTHORIZED FOR A PROJECT.

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.

(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."



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

2 "**§ 159-54. The bond order.**

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

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

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

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

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

35 **SECTION 4.** G.S. 160A-537(d) reads as rewritten:

36 "(d) Effective Date. – Except as otherwise provided in this subsection, the ~~The~~ resolution
37 defining a service district shall take effect at the beginning of a fiscal year commencing after its
38 passage, as determined by the city ~~council, except that if~~ council. If the governing body in the
39 resolution states that general obligation bonds or special obligation bonds are anticipated to be
40 authorized for the project, it may make the resolution effective immediately upon its ~~adoption,~~
41 ~~but~~ adoption or as otherwise provided in the resolution. However, no ad valorem tax may be
42 levied for a partial fiscal year."

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

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