

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1989

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SENATE BILL 840

Short Title: Local Gov't. Finance.

(Public)

Sponsors: Senator Johnson of Wake.

Referred to: Finance.

April 11, 1989

A BILL TO BE ENTITLED

AN ACT TO IMPLEMENT MISCELLANEOUS REVISIONS WITH RESPECT TO LOCAL GOVERNMENT FINANCE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 115D-33 reads as rewritten:

**"§115D-33. Providing local public funds for institutions established under this Chapter; elections.**

(a) Except as provided in G.S. 115D-34, the tax-levying authority of an institution may provide for local financial support of the institution as follows:

- (1) By appropriations from nontax revenues in a manner consistent with the Local Government Budget and Fiscal Control Act, provided the continuing authority to make such appropriations shall have been approved by a majority of the qualified voters of the administrative area who shall vote on the question in an election held for such purpose, or
- (2) By a special annual levy of taxes within a maximum annual rate which maximum rate shall have been approved by a majority of the qualified voters of the administrative area who shall vote on the question of establishing or increasing the maximum annual rate in an election held for such purpose or both, and
- (3) By issuance of bonds, in the case of capital outlay funds, provided that each issuance of bonds shall be approved by a majority of the qualified voters of each county of the administrative area who shall vote on the question in an election held for that ~~purpose.~~ purpose or shall be issued

1                   pursuant to G.S. 159-49(2). All bonds shall be subject to the Local  
2                   Government Finance Act (Chapter 159) and shall be issued pursuant to  
3                   Subchapter IV, Long-Term Financing, (G.S. 159-43 et seq.) of Chapter  
4                   159 of the General Statutes.

5           (b) At the election on the question of approving authority of the board of  
6 commissioners of each county in an administrative area (the tax-levying authority) to  
7 appropriate funds from nontax revenues or a special annual levy of taxes or both, the  
8 ballot furnished the qualified voters in each county may be worded substantially as  
9 follows: 'For the authority of the board of commissioners to appropriate funds either  
10 from nontax revenues or from a special annual levy of taxes not to exceed an annual rate  
11 of ..... cents per one hundred dollars (\$100.00) of assessed property valuation, or both,  
12 for the financial support of ..... (name of the institution)' plus any other pertinent  
13 information and 'Against the authority of the board of commissioners, etc.,' with a  
14 square before each proposition, in which the voter may make a cross mark (X), but any  
15 other form of ballot containing adequate information and properly stating the question  
16 to be voted upon shall be construed as being in compliance with this section.

17           (c) The question of approving authority to appropriate funds, to levy special  
18 taxes and the question of approving an issue of bonds, when approval of each or both  
19 shall be necessary for the establishment or conversion of an institution, shall be  
20 submitted at the same election.

21           (d) All elections shall be held in the same manner as elections held under Article  
22 4, Chapter 159, of the General Statutes, the Local Government Bond Act, and may be  
23 held at any time fixed by the tax-levying authority of the administrative area or  
24 proposed administrative area of the institution for which such election is to be held.

25           (e) The State Board of Community Colleges shall ascertain that authority to  
26 provide adequate funds for the establishment and operation of an institution has been  
27 approved by the voters of a proposed administrative area before favorably  
28 recommending approval of the establishment of an institution.

29           (f) Notwithstanding any present provisions of this Chapter, the tax-levying  
30 authority of each institution may at its discretion and upon its own motion provide by  
31 appropriations of nontax revenue, tax revenue, or both, funds for the support of  
32 institutional purposes as set forth in G.S. 115D-32; but nothing herein shall be construed  
33 to authorize the issuance of bonds without a vote of the ~~people~~ people except pursuant  
34 to G.S. 159-49(2)."

35                   Sec. 2. G.S. 159-79 reads as rewritten:

36           "**§ 159-79. Variable rate demand bonds and notes.**

37           (a) Notwithstanding any provisions of this Chapter to the contrary, including  
38 particularly, but without limitation, the provisions of G.S. 159-65, G.S. 159-123 to  
39 G.S.159-127, inclusive, G.S. 159-130, G.S. 159-138, G.S. 159-162, G.S. 159-164 and  
40 G.S. 159-172, a unit of local government, in fixing the details of general obligation  
41 bonds to be issued pursuant to this Article or general obligation notes to be issued  
42 pursuant to Article 9 of this Chapter, may provide that such bonds or notes

43                   (1) May be made payable from time to time on demand or tender for  
44                   purchase by the owner provided a Credit Facility supports such bonds

1 or notes, unless the Commission specifically determines that a Credit  
2 Facility is not required upon a finding and determination by the  
3 Commission that the proposed bonds or notes will satisfy the  
4 conditions set forth in G.S. 159-52;

5 (2) May be additionally supported by a Credit Facility;

6 (3) May be made subject to redemption prior to maturity, with or without  
7 premium, on such notice, at such time or times, at such price or prices  
8 and with such other redemption provisions as may be stated in the  
9 resolution fixing the details of such bonds or notes or with such  
10 variations as may be permitted in connection with a Par Formula  
11 provided in such resolution; and any mandatory sinking fund  
12 redemptions so provided for shall be treated as the equivalent of  
13 maturity installments for purposes of the requirements of G.S. 159-  
14 65(3) and (4);

15 (4) May bear interest at a rate or rates that may vary as permitted pursuant  
16 to a Par Formula and for such period or periods of time, all as may be  
17 provided in such resolution; and

18 (5) May be made the subject of a remarketing agreement whereby an  
19 attempt is made to remarket the bonds to new purchases prior to their  
20 presentment for payment to the provider of the Credit Facility or to the  
21 issuing unit.

22 (b) No Credit Facility, repayment agreement, Par Formula or remarketing  
23 agreement shall become effective without the approval of the Commission.

24 (c) As used in this section, the following terms shall have the following  
25 meanings:

26 (1) 'Credit Facility' means an agreement entered into by an issuing unit  
27 with a bank, savings and loan association or other banking institution,  
28 an insurance company, reinsurance company, surety company or other  
29 insurance institution, a corporation, investment banking firm or other  
30 investment institution, or any financial institution providing for prompt  
31 payment of all or any part of the principal (whether at maturity,  
32 presentment or tender for purchase, redemption or acceleration),  
33 redemption premium, if any, and interest on any bonds or notes  
34 payable on demand or tender by the owner issued in accordance with  
35 this section, in consideration of the issuing unit agreeing to repay the  
36 provider of such Credit Facility in accordance with the terms and  
37 provisions of a repayment agreement. A bank may include a foreign  
38 bank or branch or agency thereof the obligations of which bear the  
39 highest rating of at least one nationally-recognized rating service and  
40 do not bear a rating below the highest rating of any nationally-  
41 recognized rating service which rates such particular obligations.

42 (2) 'Par Formula' shall mean any provision or formula adopted by the  
43 issuing unit to provide for the adjustment, from time to time, of the  
44 interest rate or rates borne by any such bonds or notes so that the

1 purchase price of such bonds or notes in the open market would be as  
2 close to par as possible.

3 (d) If the aggregate principal amount repayable by the issuing unit under a  
4 repayment agreement is in excess of the aggregate principal amount of bonds or notes  
5 secured by the related Credit Facility, whether as a result of the inclusion in the Credit  
6 Facility of a provision for the payment of interest for a limited period of time or the  
7 payment of a redemption premium or for any other reason, then the amount of unissued  
8 bonds or notes during the term of such repayment agreement shall not be less than the  
9 amount of such excess, unless the payment of such excess is otherwise provided for by  
10 agreement of the issuing unit subject to the approval of the Commission. In  
11 determining whether or not to grant such approval, the Commission shall consider, in  
12 addition to such other factors it may deem relevant, the ability of the issuing unit to pay  
13 such excess from other sources without incurring additional indebtedness secured by a  
14 pledge of the faith and credit of the issuing unit or levying additional taxes and the  
15 adequacy of such other sources to accomplish such purpose.

16 (e) Any bonds or notes issued pursuant to this section may be sold by the  
17 Commission at public or private sale according to such procedures as the Commission  
18 may prescribe and at such prices as the Commission determines to be in the best interest  
19 of the issuing unit, subject to the approval of the governing board of the issuing unit or  
20 one or more persons designated by resolution of the governing board of the issuing unit  
21 to approve such prices.

22 (f) Any bonds or notes issued pursuant to this section with serial maturities may  
23 be revised by the issuer thereof to provide for mandatory sinking fund redemptions in  
24 place of all or portions of such maturities or installments."

25 Sec. 3. G.S. 159-123(c) reads as rewritten:

26 "(c) When the issuing unit wishes to have a private sale of bonds, the governing  
27 board of the issuing unit shall adopt and file with the Commission a resolution  
28 requesting that the bonds be sold at private sale without advertisement to any purchaser  
29 or purchasers thereof, at such prices as the Commission determines to be in the best  
30 interest of the issuing unit, subject to the approval of the governing board of the issuing  
31 unit or one or more persons designated by resolution of the governing board of the  
32 issuing unit to approve such prices. Upon receipt of a resolution requesting a private  
33 sale of bonds, the Commission may offer them to any purchaser or purchasers without  
34 advertisement, and may sell them at any price the Commission deems in the best  
35 interest of the issuing unit, subject to the approval of the governing board of the issuing  
36 unit or the person or persons designated by resolution of the governing board of the  
37 issuing unit to approve such prices. For purposes of this subsection, any resolution of  
38 the governing board of the issuing unit which designates a person or persons to approve  
39 any price or prices shall also establish a minimum purchase price and a maximum  
40 interest rate or maximum interest cost and such other provisions relating to approval as  
41 it may determine. Notwithstanding any provisions of this Chapter ~~159~~ to the contrary,  
42 the bonds may be sold at private sale at price so determined for general obligations bonds  
43 may be not less than ninety-eight percent (98%) of the face value of the bonds plus one  
44 hundred percent (100%) of accrued interest."

1           Sec. 4. Nothing in this act shall be construed to impair the obligation of any  
2 bonds, notes, or coupons issued under the Local Government Finance Act and  
3 outstanding on the effective date of this act.

4           Sec. 5. This act is effective upon ratification.