

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1991

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SENATE BILL 1241

Short Title: Community College Bond Act.

(Public)

Sponsors: Senators Daniel; Warren, Marvin, Forrester, and Seymour.

Referred to: Finance.

June 8, 1992

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE THE ISSUANCE OF GENERAL OBLIGATION BONDS OF THE STATE, SUBJECT TO A VOTE OF THE QUALIFIED VOTERS OF THE STATE, TO PROVIDE FUNDS, WITH ANY OTHER AVAILABLE FUNDS, FOR IMPROVEMENTS FOR COMMUNITY COLLEGES.

The General Assembly of North Carolina enacts:

Section 1. Short title. This act shall be known and may be cited as the "Community Colleges Bond Act."

Sec. 2. Findings and determinations. It is the intent and purpose of the General Assembly by this act to provide for the issuance of general obligation bonds of the State in order to make grants to particular community colleges for specified purposes as herein provided.

Sec. 3. Definitions. As used in this act, unless the context otherwise requires:

(1) "Bonds" means bonds issued under this act.

(2) "Cost" means, without intending thereby to limit or restrict any proper definition of such word in financing the cost of facilities or purposes authorized by this act:

a. The cost of constructing, reconstructing, enlarging, acquiring, and improving facilities, and acquiring equipment and land therefor,

b. The cost of engineering, architectural, and other consulting services as may be required,

c. Administrative expenses and charges,

1 d. The cost of bond insurance, investment contracts, credit
2 enhancement and liquidity facilities, interest-rate swap
3 agreements, financial and legal consultants, and related costs of
4 bond and note issuance, to the extent and as determined by the
5 State Treasurer, and

6 e. Any other costs and expenses necessary or incidental to the
7 purposes of this act.

8 Allocations in this act of proceeds of bonds to the costs of a project or
9 undertaking in each case may include allocations to pay the costs set
10 forth in items c., d., and e. in connection with the issuance of bonds for
11 such project or undertaking.

12 (3) "Credit facility" means an agreement entered into by the State
13 Treasurer on behalf of the State with a bank, savings and loan
14 association or other banking institution, an insurance company,
15 reinsurance company, surety company or other insurance institution, a
16 corporation, investment banking firm or other investment institution,
17 or any financial institution or other similar provider of a credit facility,
18 which provider may be located within or without the United States of
19 America, such agreement providing for prompt payment of all or any
20 part of the principal or purchase price (whether at maturity,
21 presentment, or tender for purchase, redemption, or acceleration),
22 redemption premium, if any, and interest on any bonds or notes
23 payable on demand or tender by the owner, in consideration of the
24 State agreeing to repay the provider of the credit facility in accordance
25 with the terms and provisions of such agreement.

26 (4) "Notes" means notes issued under this act.

27 (5) "Par formula" means any provision or formula adopted by the State to
28 provide for the adjustment, from time to time, of the interest rate or
29 rates borne by any bonds or notes, including:

30 a. A provision providing for such adjustment so that the purchase
31 price of such bonds or notes in the open market would be as
32 close to par as possible,

33 b. A provision providing for such adjustment based upon a
34 percentage or percentages of a prime rate or base rate, which
35 percentage or percentages may vary or be applied for different
36 periods of time, or

37 c. Such other provision as the State Treasurer may determine to be
38 consistent with this act and will not materially and adversely
39 affect the financial position of the State and the marketing of
40 bonds or notes at a reasonable interest cost to the State.

41 Sec. 4. Authorization of bonds and notes. Subject to a favorable vote of a
42 majority of the qualified voters of the State who vote on the question of issuing
43 community college bonds in the election called and held as hereinafter provided, the
44 State Treasurer is hereby authorized, by and with the consent of the Council of State, to

1 issue and sell, at one time or from time to time, general obligation bonds of the State to
 2 be designated "State of North Carolina Community College Bonds," with such
 3 additional designations as may be determined to indicate the issuance of bonds from
 4 time to time, or notes of the State as herein provided, in an aggregate principal amount
 5 not exceeding one hundred million dollars (\$100,000,000) for the purposes authorized
 6 in this act.

7 Sec. 5. Uses of bond and note proceeds. The proceeds of community college
 8 bonds and notes shall be used for the purpose of making grants to community or
 9 technical colleges, as defined in Chapter 115D of the General Statutes, the proceeds of
 10 the grants to be allocated and expended for paying the cost of community college
 11 improvements, to the extent and as provided in this act and subject to change as herein
 12 provided, as follows:

13
 14 COLLEGE PROJECT NAME AMOUNT

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 16 The particular improvements and the amount of the allocation therefor set
 17 forth above may be changed from time to time as the General Assembly may decide.

18 The State Board of Community Colleges is empowered, when the State Board
 19 of Community Colleges determines it is in the best interest of the State and the
 20 community college system to do so, and if the cost of a particular project is less than the
 21 projected allocation, to use the excess funds to increase the size of that project or
 22 increase the size of any other project described in this section, or to increase the amount
 23 allocated to a particular institution within the aggregate amount of funds available under
 24 this section. To the extent that funds are not required to be expended for the specific
 25 projects described in this section, allocations authorized herein may be used for projects
 26 at any community college or colleges, including community colleges not described
 27 above, as replacement projects, but no such funds may be used for operating
 28 expenditures.

29 Sec. 6. Allocation of proceeds. The proceeds of community college bonds
 30 and notes, including premium thereon, if any, except the proceeds of bonds the issuance
 31 of which has been anticipated by bond anticipation notes or the proceeds of refunding
 32 bonds or notes, shall be placed by the State Treasurer in a special fund to be designated
 33 "Community College Bonds Fund." Moneys in the Community College Bonds Fund
 34 shall be used for the purposes set forth in this act, and the particular disbursements
 35 within such purposes to be made in whole or in part from the proceeds shall be
 36 determined from time to time by the State Board of Community Colleges.

37 Any additional moneys which may be received by means of a grant or grants
 38 from the United States of America or any agency or department thereof or from any
 39 other source to aid in financing the cost of any community college loans or grants
 40 authorized by this act may be placed by the State Treasurer in the Community College
 41 Bonds Fund or in a separate account or fund and shall be disbursed, to the extent
 42 permitted by the terms of such grant or grants, without regard to any limitations
 43 imposed by this act.

1 The proceeds of Community College Bonds and notes may be used with any
2 other moneys made available by the General Assembly for the making of community
3 college grants, including the proceeds of any other State bond issues, whether heretofore
4 made available or which may be made available at the session of the General Assembly
5 at which this act is ratified or any subsequent sessions. The proceeds of Community
6 College Bonds and notes shall be expended and disbursed under the direction and
7 supervision of the Director of the Budget.

8 Sec. 7. Election. The question of the issuance of the North Carolina
9 Community College Bonds authorized by this act shall be submitted to the qualified
10 voters of the State at an election to be held on a date to be fixed by the Governor by
11 proclamation issued by him, but in any event not later than November 3, 1992. Any
12 other primary, election, or referendum validly called or scheduled by law at the time the
13 election on the bond questions provided for in this section is held may be held as called
14 or scheduled. Notice of the election on the bond question shall be given by publication
15 twice in a newspaper or newspapers having general circulation in each county in the
16 State, and the election and the registration of voters therefor shall be held under and in
17 accordance with the general laws of the State. Absentee ballots shall be authorized in
18 the election.

19 The State Board of Elections shall reimburse the counties of the State for all
20 necessary expenses incurred in holding the election which are in addition to those which
21 would have otherwise been incurred, the same to be paid out of the Contingency and
22 Emergency Fund or other funds available to the State Board of Elections.

23 Voting machines may be used in accordance with the rules and regulations
24 prescribed by the State Board of Elections. The State Board of Elections may also
25 cause to be printed and distributed, to the extent necessary, ballots for use in the
26 election. The bond question to be used in the voting machines and any ballots shall be
27 in substantially the following form:

28 "[] FOR the issuance of State of North Carolina Community College
29 Bonds secured by a pledge of the faith and credit and taxing power of
30 the State for making grants to community and technical colleges to
31 pay, together with other available funds, the cost of improvements.

32 [] AGAINST the issuance of State of North Carolina Community
33 College Bonds secured by a pledge of the faith and credit and taxing
34 power of the State for making grants to community and technical
35 colleges to pay, together with other available funds, the cost of
36 improvements."

37 If a majority of those voting on the bond question in the election shall vote in
38 favor of the issuance of the bonds, such bonds may be issued as herein provided. If a
39 majority of those voting on the bond question in the election shall vote against the
40 issuance of the bonds, such bonds shall not be issued.

41 The results of the election shall be canvassed and declared as provided by law
42 for the holding of elections for State officers and the results thereof certified by the
43 State Board of Elections to the Secretary of State, in the manner and at the time
44 provided by the general election laws of the State.

1 Sec. 8. Issuance of bonds and notes. (a) Terms and conditions. Bonds or notes
2 may bear such date or dates, may be serial or term bonds or notes, or any combination
3 thereof, may mature in such amounts and at such time or times, not exceeding 40 years
4 from their date or dates, may be payable at such place or places, either within or without
5 the United States of America, in such coin or currency of the United States of America
6 as at the time of payment is legal tender for payment of public and private debts, may
7 bear interest at such rate or rates, which may vary from time to time, and may be made
8 redeemable before maturity, at the option of the State or otherwise as may be provided
9 by the State, at such price or prices, including a price less than the face amount of the
10 bonds or notes, and under such terms and conditions, all as may be determined by the
11 State Treasurer, by and with the consent of the Council of State.

12 (b) Signatures; form and denomination; registration. Bonds or notes may be
13 issued as certificated or uncertificated obligations. If issued as certificated obligations,
14 bonds or notes shall be signed on behalf of the State by the Governor or shall bear his
15 facsimile signature, shall be signed by the State Treasurer or shall bear his facsimile
16 signature, and shall bear the Great Seal of the State or a facsimile thereof shall be
17 impressed or imprinted thereon. If bonds or notes bear the facsimile signatures of the
18 Governor and the State Treasurer, the bonds or notes shall also bear a manual signature
19 which may be that of a bond registrar, trustee, paying agent, or designated assistant of
20 the State Treasurer. Should any officer whose signature or facsimile signature appears
21 on bonds or notes cease to be such officer before the delivery of the bonds or notes, the
22 signature or facsimile signature shall nevertheless have the same validity for all
23 purposes as if the officer had remained in office until delivery and bonds or notes may
24 bear the facsimile signatures of persons who at the actual time of the execution of the
25 bonds or notes shall be the proper officers to sign any bond or note although at the date
26 of the bond or note such persons may not have been such officers. The form and
27 denomination of bonds or notes, including the provisions with respect to registration of
28 the bonds or notes and any system for their registration, shall be as the State Treasurer
29 may determine in conformity with this act; provided, however, that nothing in this act
30 shall prohibit the State Treasurer from proceeding, with respect to the issuance and form
31 of the bonds or notes, under the provisions of Chapter 159E of the General Statutes, the
32 Registered Public Obligations Act, as well as under this act.

33 (c) Manner of sale; expenses. Subject to determination by the Council of State as
34 to the manner in which bonds or notes shall be offered for sale, whether at public or
35 private sale, whether within or without the United States of America, and whether by
36 publishing notices in certain newspapers and financial journals, mailing notices, inviting
37 bids by correspondence, negotiating contracts of purchase or otherwise, the State
38 Treasurer is authorized to sell bonds or notes at one time or from time to time at such
39 rate or rates of interest, which may vary from time to time, and at such price or prices,
40 including a price less than the face amount of the bonds or the notes, as the State
41 Treasurer may determine. All expenses incurred in preparation, sale, and issuance of
42 bonds or notes shall be paid by the State Treasurer from the proceeds of bonds or notes
43 or other available moneys.

44 (d) Notes; repayment.

- 1 (1) By and with the consent of the Council of State, the State Treasurer is
2 hereby authorized to borrow money and to execute and issue notes of
3 the State for the same, but only in the following circumstances and
4 under the following conditions:
- 5 a. For anticipating the sale of bonds to the issuance of which the
6 Council of State shall have given consent, if the State Treasurer
7 shall deem it advisable to postpone the issuance of the bonds;
- 8 b. For the payment of interest on or any installment of principal of
9 any bonds then outstanding, if there shall not be sufficient funds
10 in the State treasury with which to pay the interest or
11 installment of principal as they respectively become due;
- 12 c. For the renewal of any loan evidenced by notes herein
13 authorized;
- 14 d. For the purposes authorized in this act; and
- 15 e. For refunding bonds or notes as herein authorized.
- 16 (2) Funds derived from the sale of bonds or notes may be used in the
17 payment of any bond anticipation notes issued under this act. Funds
18 provided by the General Assembly for the payment of interest on or
19 principal of bonds shall be used in paying the interest on or principal
20 of any notes and any renewals thereof, the proceeds of which shall
21 have been used in paying interest on or principal of the bonds.
- 22 (e) Refunding bonds and notes. By and with the consent of the Council of
23 State, the State Treasurer is authorized to issue and sell refunding bonds and notes
24 pursuant to the provisions of the State Refunding Bond Act for the purpose of refunding
25 bonds or notes issued pursuant to this act. The refunding bonds and notes may be
26 combined with any other issues of State bonds and notes similarly secured.
- 27 (f) Tax exemption. Bonds and notes and their transfer(including any profit
28 made on the sale thereof) shall be exempt from all State, county, and municipal taxation
29 or assessment, direct or indirect, general or special, whether imposed for the purpose of
30 general revenue or otherwise, excluding inheritance and gift taxes. The interest on
31 bonds and notes shall not be subject to taxation as to income, nor shall the bonds and
32 notes be subject to taxation when constituting a part of the surplus of any bank, trust
33 company, or other corporation.
- 34 (g) Investment eligibility. Bonds and notes are hereby made securities in
35 which all public officers, agencies, and public bodies of the State and its political
36 subdivisions, all insurance companies, trust companies, investment companies, banks,
37 savings banks, savings and loan associations, credit unions, pension or retirement funds,
38 other financial institutions engaged in business in the State, executors, administrators,
39 trustees, and other fiduciaries may properly and legally invest funds, including capital in
40 their control or belonging to them. Bonds and notes are hereby made securities which
41 may properly and legally be deposited with and received by any officer or agency of the
42 State or political subdivision of the State for any purpose for which the deposit of
43 bonds, notes, or obligations of the State or any political subdivision is now or may
44 hereafter be authorized by law.

1 (h) Faith and credit. The faith and credit and taxing power of the State are
2 hereby pledged for the payment of the principal of and the interest on bonds and notes.

3 Sec. 9. Variable interest rates. In fixing the details of bonds and notes, the
4 State Treasurer may provide that any of the bonds or notes may:

- 5 (1) Be made payable from time to time on demand or tender for purchase
6 by the owner thereof provided a credit facility supports the bonds or
7 notes, unless the State Treasurer specifically determines that a credit
8 facility is not required upon a finding and determination by the State
9 Treasurer that the absence of a credit facility will not materially or
10 adversely affect the financial position of the State and the marketing of
11 the bonds or notes at a reasonable interest cost to the State;
- 12 (2) Be additionally supported by a credit facility;
- 13 (3) Be made subject to redemption or a mandatory tender for purchase
14 prior to maturity;
- 15 (4) Bear interest at a rate or rates that may vary for such period or periods
16 of time, all as may be provided in the proceedings providing for the
17 issuance of the bonds or notes, including, without limitation, such
18 variations as may be permitted pursuant to a par formula; and
- 19 (5) Be made the subject of a remarketing agreement whereby an attempt is
20 made to remarket bonds or notes to new purchasers prior to their
21 presentment for payment to the provider of the credit facility or to the
22 State.

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

31 Sec. 10. Interpretation of act. (a) Additional method. The foregoing sections of
32 this act shall be deemed to provide an additional and alternative method for the doing of
33 the things authorized thereby and shall be regarded as supplemental and additional to
34 powers conferred by other laws, and shall not be regarded as in derogation of any
35 powers now existing.

36 (b) References in this act to specific sections or Chapters of the General Statutes
37 are intended to be references to such sections as they may be amended from time to time
38 by the General Assembly.

39 (c) Liberal construction. This act, being necessary for the health and welfare of
40 the people of the State, shall be liberally construed to effect the purposes thereof.

41 (d) Inconsistent provisions. Insofar as the provisions of this act are inconsistent
42 with the provisions of any general laws, or parts thereof, the provisions of this act shall
43 be controlling.

1 (e) Severability. If any provision of this act or the application thereof to any
2 person or circumstance is held invalid, such invalidity shall not affect other provisions
3 or applications of the act which can be given effect without the invalid provision or
4 application, and to this end the provisions of this act are declared to be severable.

5 Sec. 11. This act is effective upon ratification.