

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1993

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SENATE BILL 694

Short Title: Special Obligation Bonds.

(Public)

Sponsors: Senators Carpenter, Hartsell; Lee, Speed, Martin of Pitt, Codington, Cochran, Blackmon, Forrester, Smith, Allran, and Albertson.

Referred to: Finance.

April 5, 1993

1 A BILL TO BE ENTITLED
2 AN ACT TO AUTHORIZE LOCAL GOVERNMENTS TO ISSUE BONDS AND
3 NOTES CONSTITUTING SPECIAL OBLIGATIONS SECURED SOLELY BY
4 SOURCES THAT ARE NOT DERIVED FROM THE EXERCISE OF THEIR
5 TAXING POWER TO PROVIDE FUNDS FOR CERTAIN LOCAL
6 INFRASTRUCTURE NEEDS.

7 The General Assembly of North Carolina enacts:

8 Section 1. Chapter 159 of the General Statutes is amended by adding a new
9 Article to read:

10 **"ARTICLE 6A.**
11 **"SPECIAL OBLIGATION BONDS.**

12 **"§ 159-111.1. Short title.**

13 This Article may be cited as 'The Local Government Special Obligation Bond Act'.

14 **"§ 159-112. Definitions.**

15 The following definitions apply in this Article:

16 (1) Municipality. A county, a city, a town, an incorporated village, or a
17 sanitary district. The term does not include any other form of local
18 government.

19 (2) Municipal purpose. One of the following purposes:

20 a. Providing jails and other confinement facilities.

21 b. Providing courthouses, including offices, meeting rooms,
22 courtrooms, court facilities, and detention facilities.

- 1 c. Providing sanitary sewer systems, including community
2 sewerage facilities for the collection, treatment, and disposal of
3 sewage, septic tank systems, and other on-site collection and
4 disposal facilities or systems.
5 d. Providing water systems, including facilities for the supply,
6 storage, treatment, and distribution of water.
7 e. Providing hospital facilities, as defined in G.S. 159-48(7).

8 A municipal purpose includes any undertaking for the acquisition,
9 construction, reconstruction, improvement, enlargement, betterment,
10 or extension of any of the foregoing facilities or systems owned or
11 leased as lessee by the municipality. The cost of an undertaking may
12 include all property, both real and personal and improved and
13 unimproved, plants, works, appurtenances, machinery, equipment,
14 easements, water rights, air rights, franchises, and licenses used or
15 useful in connection with any of the foregoing facilities and systems;
16 the cost of demolishing or moving structures from land acquired and
17 the cost of acquiring any lands to which such structures are to be
18 moved; financing charges; the cost of plans, specifications, surveys,
19 and estimates of cost and revenues; administrative and legal expenses;
20 and any other expense necessary or incident to the undertaking.

21 (3) Special obligation bond. A bond issued by a municipality pursuant to
22 this Article. The term does not include a revenue bond issued pursuant
23 to Article 5 of this Chapter.

24 (4) Special obligation bond anticipation note. A bond anticipation note
25 issued by a municipality pursuant to this Article. The term does not
26 include a revenue bond anticipation note issued pursuant to Article 5
27 and Article 9 of this Chapter.

28 **"§ 159-113. Purpose.**

29 The purpose of this Article is to establish a uniform procedure for the financing by a
30 municipality of municipal purposes without pledging its faith and credit through the
31 issuance of special obligation bonds and special obligation bond anticipation notes that
32 are secured as to principal, interest, and any redemption premium solely from sources
33 that are not derived from the exercise of its taxing power.

34 **"§ 159-114. Powers.**

35 (a) In addition to other powers that it may now or hereafter have, each
36 municipality shall have the following powers, subject to the provisions of this Article
37 and of any bond order or trust agreement authorizing or securing special obligation
38 bonds:

- 39 (1) To exercise in connection with any municipal purpose for which it
40 could issue revenue bonds pursuant to Article 5 of this Chapter the
41 powers granted to it pursuant to G.S. 159-83, except that for the
42 purposes of this Article: (i) additional security may be created as
43 provided in this Article notwithstanding the provisions of G.S. 159-
44 83(a)(5); and (ii) any rates, fees, rentals, tolls, and charges fixed and

- 1 charged by it pursuant to G.S. 159-83(a)(6) need not produce any
2 minimum amount of revenues.
- 3 (2) To borrow money to provide funds for any one or more municipal
4 purposes and to issue its special obligation bonds or special obligation
5 bond anticipation notes in evidence thereof as provided in this Article.
- 6 (3) To pledge for the payment of its special obligation bonds, special
7 obligation bond anticipation notes, and interest and any premium on
8 bonds and notes any revenue source that may be available for use by
9 the municipality for the municipal purpose or purposes to be financed
10 and, to the extent the generation of revenue is within the power of the
11 municipality, to enter into covenants to take action to generate the
12 revenue, but only to the extent that any use of a source to pay the
13 principal of or interest or premium on the bonds or notes or any
14 covenant to generate revenues will not constitute a pledge of the taxing
15 power of the municipality. A municipality may, in its sole discretion,
16 use tax proceeds to pay the principal of or interest or premium on the
17 bonds or notes, but shall not pledge or agree to do so.
- 18 (4) To appropriate, apply, or expend for the following purposes the
19 proceeds of its special obligation bonds, special obligation bond
20 anticipation notes, and revenue sources that may be used under any
21 bond order or trust agreement authorizing or securing such bonds or
22 notes: (i) to pay interest on the bonds or notes and the principal or
23 redemption price of the bonds or notes when due; (ii) to meet reserves
24 and other requirements set forth in the bond order or trust agreement;
25 (iii) to provide funds for the municipal purpose authorized in the bond
26 order or trust agreement and to provide working capital for initial
27 maintenance and operation; and (iv) to pay and discharge special
28 obligation bonds, revenue bonds, general obligation bonds, and notes
29 issued in anticipation of these bonds.
- 30 (5) In connection with issuing its special obligation bonds or special
31 obligation bond anticipation notes to finance the providing of a
32 municipal purpose pursuant to this Article, to grant a security interest
33 in the municipal purpose financed, or in all or some portion of the
34 property on which the municipal purpose is located, or in both. If a
35 municipality determines to provide additional security as authorized by
36 this subdivision, the following conditions apply:
- 37 a. No bond order may contain a nonsubstitution clause that restricts the
38 right of a municipality to: (i) continue to provide a service or activity or (ii)
39 replace or provide a substitute for any municipal purpose financed pursuant to such
40 bond order.
- 41 b. A bond order is subject to approval by the Commission under Article 8
42 of this Chapter if it: (i) meets the standards set out in G.S. 159-148(a)(1), 159-
43 148(a)(2), and 159-148(a)(3), or involves the construction or repair of fixtures or

1 improvements on real property; and (ii) is not exempted from the provisions of Article
2 8 of this Chapter by one of the exemptions contained in G.S. 159-148(b).

3 c. No deficiency judgment payable from sources derived from the
4 exercise of a municipality's taxing power may be rendered
5 against any municipality in any action for breach of a bond
6 order authorized by this Article, and the taxing power of a
7 municipality is not and may not be pledged directly or
8 indirectly to secure any moneys due under a bond order
9 authorized by this section. A municipality may, in its sole
10 discretion, use tax proceeds to pay the principal of or interest or
11 premium on bonds or notes, but shall not pledge or agree to do
12 so.

13 (b) The Commission shall approve any contract, agreement, lease, deed,
14 covenant, or other instrument or document evidencing an agreement or covenant
15 between bondholders or any public agency and a municipality issuing special obligation
16 bonds or special obligation bond anticipation notes with respect to any of the powers
17 conferred in this section.

18 **"§ 159-115. Authorization of special obligation bonds and notes.**

19 Each municipality may issue its special obligation bonds and special obligation bond
20 anticipation notes in such principal amount as may be necessary to provide sufficient
21 funds for one or more municipal purposes, including engineering, inspection, legal, and
22 financial fees and costs; interest on the bonds or notes issued in anticipation of the
23 bonds during construction; if deemed advisable by the municipality, for a period not
24 exceeding two years after the estimated date of completion of construction,
25 establishment of debt service reserves; and all other expenditures of the municipality
26 incidental and necessary or convenient to the municipal purposes, including, except as
27 expressly modified by this Article, the costs set forth as the cost of an undertaking in the
28 last paragraph of G.S. 159-81(3).

29 Each municipality may issue further special obligation bonds and may refund
30 outstanding special obligation bonds issued pursuant to this Article or G.S. 159I-30,
31 general obligation bonds issued pursuant to Article 4 of this Chapter, or revenue bonds
32 issued pursuant to Article 5 of this Chapter, whether or not they have matured. Special
33 obligation bonds may be issued partly for the purpose of refunding these outstanding
34 bonds and partly for any other purpose authorized under this Article. Special obligation
35 bonds issued to refund these outstanding bonds shall be issued under this Article and not
36 under any other law.

37 Special obligation refunding bonds may be issued at any time before the final
38 maturity of the special obligation bonds, general obligation bonds, or revenue bonds to
39 be refunded. The proceeds from the sale of any special obligation refunding bonds shall
40 be applied only either: (i) to the immediate payment and retirement of the bonds being
41 refunded or (ii) if not required for the immediate payment of the bonds being refunded,
42 to a trust account to provide for the payment and retirement of the bonds being refunded
43 and to pay any expenses incurred in connection with the refunding, but provision may
44 be made for the pledging and disposition of any amounts in excess of the amounts

1 required for these purposes, including provision for the pledging of the excess to the
2 payment of the principal of and interest on any issue or series of refunding bonds issued
3 pursuant to G.S. 159-78. Money in such a trust account may be invested: (i) in direct
4 obligations of the United States government, (ii) in obligations, the principal of and
5 interest on which are guaranteed by the United States government, (iii) to the extent
6 then permitted by law, in obligations of any agency or instrumentality of the United
7 States government, or (iv) in certificates of deposit issued by a bank or trust company
8 located in this State if the certificates are secured by a pledge of any of the obligations
9 described in (i), (ii), or (iii) having an aggregate market value, exclusive of accrued
10 interest, equal at least to the principal amount of the certificates secured. This section
11 does not limit the duration of any deposit in trust for the retirement of bonds being
12 refunded but which have not matured and which are not presently redeemable or, if
13 presently redeemable, have not been called for redemption.

14 The principal amount of refunding bonds issued pursuant to this section, together
15 with the principal amount of refunding bonds, if any, issued under G.S. 159-78 in
16 conjunction with refunding bonds issued pursuant to this section, shall not exceed the
17 amount set forth in G. S. 159-78.

18 **"§ 159-116. Application to Commission for approval of special obligation bond**
19 **issue; preliminary conference; acceptance of application.**

20 (a) A municipality may not issue special obligation bonds under this Article
21 unless the issue is approved by the Commission. The governing board of the issuing
22 municipality, or its duly authorized agent, shall file an application for Commission
23 approval of the issue with the secretary of the Commission. The application shall state
24 such facts and have attached to it such documents concerning the proposed special
25 obligation bonds, the revenue sources that may be pledged for the payment of the bonds,
26 and the financial condition of the issuing municipality as the secretary may require. The
27 Commission may prescribe the form of the application.

28 (b) Before accepting the application, the secretary may require the governing
29 board or its representatives to attend a preliminary conference at which time the
30 secretary and the secretary's deputies may informally discuss the proposed issue and the
31 timing of the steps taken in issuing the special obligation bonds.

32 (c) After an application in proper form and order has been filed, and after a
33 preliminary conference, if one is required, the secretary shall notify the municipality in
34 writing that the application has been filed and accepted for submission to the
35 Commission. The secretary's statement shall be conclusive evidence that the
36 municipality has complied with this section.

37 **"§ 159-117. Approval of application by Commission.**

38 (a) In determining whether a proposed special obligation bond issue shall be
39 approved, the Commission may consider:

- 40 (1) Whether the municipal purpose to be financed from the proceeds of the
41 special obligation bond issue is necessary or expedient.
- 42 (2) Whether the proposed municipal purpose is feasible.
- 43 (3) The municipality's debt management procedures and policies.

- 1 (4) Whether the municipality is in default in any of its debt service
2 obligations.
- 3 (5) Whether the revenue sources to be pledged for the payment of the
4 proposed special obligation bonds will be sufficient to service the
5 bonds.
- 6 (6) The ability of the Commission to market the proposed special
7 obligation bonds at reasonable rates of interest.

8 The Commission may inquire into and give consideration to any other matters that it
9 believes have a bearing on whether the issue should be approved.

10 (b) The Commission shall approve the application if, upon the information and
11 evidence it receives, it determines:

- 12 (1) That the proposed special obligation bond issue is necessary or
13 expedient.
- 14 (2) That the amount proposed is adequate and not excessive for the
15 proposed municipal purpose of the issue.
- 16 (3) That the proposed municipal purpose is feasible.
- 17 (4) That the municipality's debt management procedures and policies are
18 good or that reasonable assurances have been given that its debt will
19 henceforth be managed in strict compliance with law.
- 20 (5) That the proposed special obligation bonds can be marketed at a
21 reasonable interest cost to the municipality.

22 **"§ 159-118. Order approving or denying the application.**

23 (a) After considering an application the Commission shall enter its order either
24 approving or denying the application. An order approving an issue shall not be
25 regarded as an approval of the legality of the special obligation bonds in any respect.

26 (b) If the Commission enters an order denying the application, the proceedings
27 under this Article are at an end.

28 **"§ 159-118.1. Adoption of special obligation bond order.**

29 (a) At any time after the Commission approves an application for the issuance of
30 special obligation bonds and following the hearing required by subsection (c) of this
31 section, the governing board of the municipality may adopt a special obligation bond
32 order pursuant to this Article. The specific sources of payment pledged by a
33 municipality shall be specifically identified in the proceedings of the governing board
34 authorizing the municipality to issue the special obligation bonds.

35 (b) Notwithstanding any other provision of law, a special obligation bond order
36 may be introduced at any regular or special meeting of the governing board of a
37 municipality and adopted by a simple majority of those present and voting if a quorum
38 is present, and need not be published or subjected to any procedural requirements
39 governing the adoption of ordinances or resolutions by the governing board other than
40 the procedures set out in this Article. Special obligation bond orders are not subject to
41 the provisions of any city charter or law concerning initiative or referendum.

42 (c) When the bond order is introduced, the board shall fix the time and place for
43 a public hearing on the order. On the date fixed for the public hearing, which shall not
44 be earlier than six days after the introduction of the special obligation bond order, the

1 board shall hear anyone who wishes to be heard on the question of the validity of the
2 order or the advisability of issuing the bonds. The hearing may be adjourned from time
3 to time.

4 **"§ 159-118.2. Special covenants.**

5 A special obligation bond order or a trust agreement authorizing or securing special
6 obligation bonds and special obligation bond anticipation notes may contain covenants
7 as to:

- 8 (1) The use of all or any part of the revenue source or sources to be
9 pledged for the payment of the special obligation bonds and special
10 obligation bond anticipation notes.
- 11 (2) Rates, fees, rentals, tolls, or other charges to be established,
12 maintained, and collected and the use and disposal of revenues, gifts,
13 grants, and funds received or to be received.
- 14 (3) The setting aside of debt service reserves and the regulation and
15 disposition of the reserves.
- 16 (4) The custody, collection, securing, investment, and payment of any
17 moneys held for the payment of special obligation bonds and special
18 obligation bond anticipation notes.
- 19 (5) Limitations or restrictions on the purposes to which the proceeds of
20 sale of special obligation bonds and special obligation bond
21 anticipation notes then or thereafter to be issued may be applied.
- 22 (6) Limitations or restrictions on the issuance of additional special
23 obligation bonds, special obligation bond anticipation notes, or other
24 obligations; the terms upon which additional special obligation bonds,
25 special obligation bond anticipation notes, or other obligations may be
26 issued and secured; or the refunding of outstanding special obligation
27 bonds, special obligation bond anticipation notes, or other bonds or
28 notes.
- 29 (7) The procedure, if any, by which the terms of any contract with owners
30 of special obligation bonds may be amended or abrogated, the
31 percentage of special obligation bonds the owners of which must
32 consent to the amendment or abrogation, and the manner in which this
33 consent may be given.
- 34 (8) Events of default and the rights and liabilities arising upon default, the
35 terms and conditions upon which special obligation bonds and special
36 obligation bond anticipation notes shall become or may be declared
37 due before maturity, and the terms and conditions upon which such a
38 declaration and its consequences may be waived.
- 39 (9) The preparation and maintenance of a budget with respect to the
40 revenues and expenses of the municipality, including the sources of
41 revenues that may be pledged for the payment of the special obligation
42 bonds and special obligation bond anticipation notes.

- 1 (10) The retention or employment of consulting engineers, independent
2 auditors, and other technical consultants in connection with a project
3 constituting a municipal purpose.
- 4 (11) Limitations on or the prohibition of free service by a project
5 constituting a municipal purpose and a source of revenues that may be
6 pledged for the payment of special obligation bonds and special
7 obligation bond anticipation notes to any person, firm, or corporation,
8 public or private.
- 9 (12) The acquisition and disposal of property for a project constituting a
10 municipal bond purpose.
- 11 (13) Provisions for insurance and for accounting reports and the inspection
12 and audit of the reports.
- 13 (14) The continuing operation and maintenance of a project constituting a
14 municipal purpose or the utility or enterprise of which it is to become a
15 part.

16 **"§ 159-118.3. Limitations on details of special obligation bonds; additional**
17 **provisions.**

18 (a) In fixing the details of special obligation bonds or special obligation bond
19 anticipation notes, the issuing municipality is subject to the following restrictions and
20 directions:

- 21 (1) The maturity dates may not exceed the maximum maturity periods
22 prescribed by the Commission for general obligation bonds pursuant to
23 G.S. 159-122.
- 24 (2) Any bond or note may be made subject to redemption prior to
25 maturity, including redemption on demand of the owner, with or
26 without premium, on such notice and at such time or times and with
27 such redemption provisions as may be stated. When the bond or note
28 has been validly called for redemption and provision has been made
29 for the payment of (i) the principal of the bond or note, (ii) any
30 redemption premium, and (iii) the interest on the bond or note accrued
31 to the date of redemption, then interest on the bond or note shall cease.
- 32 (3) The bonds or notes may bear interest at such rate or rates, payable
33 semiannually or otherwise, may be in such denominations, and may be
34 payable in such kind of money and in such place or places within or
35 without this State, as the issuing municipality may determine.
- 36 (4) No agreement or covenant shall contain a nonsubstitution clause that
37 restricts the right of a municipality to replace or provide a substitute
38 for any project financed pursuant to this Article.

39 (b) In addition to the foregoing provisions of this section, in fixing the details of
40 special obligation bonds and special obligation bond anticipation notes, the issuing
41 municipality may provide that the bonds or notes:

- 42 (1) May be made payable from time to time on demand or tender for
43 purchase by the owner if a Credit Facility supports the bonds or notes,
44 unless the Commission specifically determines that the absence of a

1 Credit Facility will not materially and adversely affect the financial
2 position of the municipality and the marketing of the bonds and notes
3 at a reasonable interest cost to the municipality.

4 (2) May be additionally supported by a Credit Facility.

5 (3) May be made subject to redemption prior to maturity, with or without
6 premium, on such notice, at such time or times, at such price or prices
7 and with such other redemption provisions as may be stated in the
8 bond order or trust agreement authorizing or securing the bonds or
9 notes or with such variations as may be permitted in connection with a
10 Par Formula provided in the bond order or trust agreement.

11 (4) May bear interest, notwithstanding the provisions of G.S. 159-125(a),
12 at a rate or rates that may vary as permitted pursuant to a Par Formula
13 and for such period or periods of time, all as may be provided in the
14 bond order or trust agreement.

15 (5) May be made subject of a remarketing agreement by which an attempt
16 is made to remarket the bonds or notes to new purchasers prior to their
17 presentment for payment to the provider of the Credit Facility or to the
18 issuing municipality.

19 No Credit Facility, repayment agreement, Par Formula, or remarketing agreement
20 shall become effective without the approval of the Commission.

21 (c) The following definitions apply in subsection (b) of this section:

22 (1) Credit Facility. An agreement entered into by an issuing municipality
23 with a bank, a savings and loan association, another banking
24 institution, an insurance company, a reinsurance company, a surety
25 company, another insurance institution, a corporation, an investment
26 banking firm, another investment institution, or any financial
27 institution providing for prompt payment of all or any part of the
28 principal (whether at maturity, presentment or tender for purchase,
29 redemption, or acceleration), redemption premium, if any, and interest
30 on any such bonds or notes payable on demand or tender by the owner
31 issued in accordance with this subsection, in consideration of the
32 issuing municipality agreeing to repay the provider of the Credit
33 Facility in accordance with the terms and provisions of the repayment
34 agreement, provided, that any such repayment agreement shall provide
35 that the obligation of the issuing municipality shall have only such
36 sources of payment as are permitted for the payment of bonds or notes
37 issued under this Article. A bank may include a foreign bank or
38 branch or agency of a foreign bank 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. A provision or formula adopted by the issuing
43 municipality to provide for the adjustment, from time to time, of the
44 interest rate or rates borne by the bonds or notes including:

- 1 a. A provision providing for adjustment so that the purchase price
2 of the bonds or notes in the open market would be as close to
3 par as possible;
4 b. A provision providing for adjustment based upon percentages
5 of a prime rate or base rate, which percentages may vary or be
6 applied for different periods of time; or
7 c. Any other provisions that the municipality may determine are
8 consistent with this Article and do not materially and adversely
9 affect the financial position of the municipality and the
10 marketing of the bonds or notes at a reasonable interest cost to
11 the municipality.

12 (d) No bond order shall be adopted under this Article if the issuance of the bonds
13 under the order causes the net debt of the municipality to exceed eight percent (8%) of
14 the appraised value of property subject to taxation by the issuing municipality; such
15 calculation to be made in accordance with G.S. 159-55(a)(1).

16 (e) Special obligation bonds and special obligation bond anticipation notes issued
17 pursuant to this Article shall be included in the calculation of gross debt under G.S. 159-
18 55(a)(i).

19 **§ 159-118.4. Lien of special obligation bonds and notes.**

20 (a) All special obligation bonds and special obligation bond anticipation notes
21 issued under this Article shall be equally and ratably secured by a pledge and a lien
22 upon the sources of revenues that may be pledged for their payment as provided in the
23 bond order or trust agreement authorizing or securing the bonds or notes, without
24 priority by reason of number, or of dates of bonds or notes, execution, or delivery, in
25 accordance with the provisions of this Article and of the bond order or trust agreement;
26 except that a municipality may provide in the bond order or trust agreement that special
27 obligation bonds or special obligation bond anticipation notes issued pursuant thereto
28 shall to the extent and in the manner prescribed in the bond order or trust agreement be
29 subordinated and junior in standing, with respect to the payment of principal, interest,
30 and any premium and the security therefor, to any other special obligation bonds or
31 special obligation bond anticipation notes.

32 (b) The pledge of a municipality with respect to the sources of payment identified
33 in a bond order or trust agreement pursuant to this Article shall be valid and binding
34 upon the issuance of any special obligation bonds or special obligation bond
35 anticipation notes under the bond order or trust agreement. The sources of payment so
36 pledged and then held or thereafter received by a municipality or any fiduciary shall
37 immediately be subject to the lien of the pledge without any physical delivery or further
38 act, and the lien shall be valid and binding as against all parties having claims of any
39 kind in tort, contract, or otherwise against the municipality without regard to whether
40 the parties have notice of the lien. The bond order or trust agreement or any other
41 document or action by which the pledge is created need not be filed or recorded in any
42 manner other than as provided in this Article.

43 **§ 159-118.5. Status of special obligation bonds under Uniform Commercial Code.**

1 Whether or not the special obligation bonds are investment securities under Article 8
2 of Chapter 25 of the General Statutes, all special obligation bonds represented by
3 instruments issued under this Article shall be treated as investment securities within the
4 meaning of and for all the purposes of Article 8 of Chapter 25 of the General Statutes.

5 **"§ 159-118.6. Limited liability.**

6 Special obligation bonds and special obligation bond anticipation notes shall be
7 special obligations of the municipality issuing them. The principal of and interest and
8 any premium on special obligation bonds and special obligation bond anticipation notes
9 shall be secured solely by any sources of payment pledged in the bond order or trust
10 agreement under which they are authorized or secured, unless the use of the sources will
11 constitute a pledge of the faith and credit of the municipality, or a legal or equitable
12 pledge, charge, lien, or encumbrance upon any of its property, except as permitted by
13 G.S. 159-114(a)(5), other than the sources or upon any other income, receipts, or
14 revenues except to the extent that special obligation bond anticipation notes are payable
15 from the proceeds of the special obligation bonds in anticipation of which they are
16 issued. Neither the faith and credit nor the taxing power of the municipality is pledged
17 for the payment of the principal of or interest or any premium on any special obligation
18 bonds or special obligation bond anticipation notes, and no owner of special obligation
19 bonds or special obligation bond anticipation notes has the right to compel the exercise
20 of the taxing power by the municipality or the forfeiture of any of its property, except as
21 permitted by G.S. 159-114(a)(5), in connection with any default on the bonds or notes.
22 Every special obligation bond and special obligation bond anticipation note shall recite
23 in substance that the principal of and interest and any premium on the bond or note are
24 secured solely by the sources of payment specified in the bond order or trust agreement
25 under which it is authorized or secured, provided that any such use of such sources will
26 not constitute a pledge of the faith and credit of the municipality, and that the
27 municipality is not obligated to pay the principal or interest or any premium except from
28 the specified sources. A municipality may, in its sole discretion, use tax proceeds to pay
29 the principal of or interest or premium on the bonds or notes, but shall not pledge or
30 agree to do so.

31 **"§ 159-118.7. Bonds and notes eligible for investment.**

32 Bonds and notes issued under this Article are securities in which all public offices,
33 agencies, and public bodies of the State and its political subdivisions, all insurance
34 companies, trust companies, investment companies, banks, savings banks, building and
35 loan associations, credit unions, pension or retirement funds, other financial institutions
36 engaged in business in the State, executors, administrators, trustees, and other
37 fiduciaries may properly and legally invest funds, including capital in their control or
38 belonging to them. Such bonds or notes are securities which may properly and legally
39 be deposited with and received by any officer or agency of the State or political
40 subdivision of the State for any purpose for which the deposit of bonds, notes, or
41 obligations of the State or any political subdivision is now or may hereafter be
42 authorized by law.

43 **"§ 159-118.8. Tax exemption.**

1 Bonds and notes authorized by this Article and the coupons, if any, appertaining
2 thereto, and their transfer (including any profit made on their sale), shall be exempt
3 from all State, county, and municipal taxation or assessment, direct or indirect, general
4 or special, whether imposed for the purpose of general revenue or otherwise, excluding
5 inheritance and gift taxes. The interest on the bonds and notes shall not be subject to
6 taxation as to income. The bonds, notes, and coupons, if any, shall not be subject to
7 taxation when constituting a part of the surplus of any bank, trust company, or other
8 corporation."

9 Sec. 2. G.S. 159-78 reads as rewritten:

10 **"§ 159-78. Special obligation refunding bonds.**

11 In conjunction with the issuance of refunding bonds pursuant to ~~G.S. 159-72 or G.S.~~
12 ~~159-84~~ G.S. 159-72, 159-84, or 159-115 a unit of local government may issue a series of
13 refunding bonds which shall be payable from the excess of the amount required by a
14 trust fund established pursuant to ~~G.S. 159-72 or G.S. 159-84~~ G.S. 159-72, 159-84, or
15 159-115 to provide for the payment and retirement of the obligations being retired and
16 the amount required to pay any expenses incurred in connection with such refunding to
17 the extent such expenses are payable from said trust fund.

18 Such refunding bonds shall be special obligations of the municipality issuing them.
19 The principal of and interest on such refunding bonds shall not be payable from the
20 general funds of the municipality, nor shall they constitute a legal or equitable pledge,
21 charge, lien, or encumbrance upon any of its property or upon any of its income,
22 receipts, or revenues, except the trust fund established pursuant to ~~G.S. 159-72 or G.S.~~
23 ~~159-84~~ G.S. 159-72, 159-84, or 159-115 from which such refunding bonds are payable.
24 Neither the credit nor the taxing power of the municipality is pledged for the payment of
25 the principal or interest of such refunding bonds, and no holder of such refunding bonds
26 has the right to compel the exercise of the taxing power of the municipality or the
27 forfeiture of any of its property in connection with any default thereon. Every such
28 refunding bond shall recite in substance that the principal of and interest on the bond is
29 payable solely from the trust fund established for its payment and that the municipality
30 is not obligated to pay the principal or interest except from such trust fund.

31 Any refunding bonds issued under this section shall be issued in compliance with the
32 procedure set forth in Article 5 or Article 6A of this Chapter.

33 The principal amount of any issue of refunding bonds issued pursuant to ~~G.S. 159-72~~
34 ~~or G.S. 159-84~~, G.S. 159-72, 159-84, or 159-115 together with the principal amount of
35 refunding bonds, if any, issued pursuant to this section in conjunction with a series of
36 bonds issued under ~~G.S. 159-72 or G.S. 159-84~~, G.S. 159-72, 159-84, or 159-115 shall not
37 exceed the sum of the following: (i) the principal amount of the obligations being
38 refinanced, (ii) applicable redemption premiums thereon, (iii) unpaid interest on such
39 obligations to the date of delivery or exchange of the refunding bonds, (iv) in the event
40 the proceeds from the sale of the refunding bonds are to be deposited in trust as
41 provided by ~~G.S. 159-72 or G.S. 159-84~~, G.S. 159-72, 159-84, or 159-115 interest to
42 accrue on such obligations being refinanced from the date of delivery of the refunding
43 bonds to the first or any subsequent available redemption date or dates selected, in its
44 discretion, by the governing body of the unit of local government, or to the date or dates

1 of maturity, whichever shall be determined by the governing body of the unit of local
2 government to be most advantageous or necessary and (v) expenses, including bond
3 discount, deemed by the governing body to be necessary for the issuance of the
4 refunding bonds."

5 Sec. 3. G.S. 159-123(b)(3) reads as rewritten:

6 "(3) Revenue ~~bonds, including any refunding bonds issued pursuant to G.S.~~
7 ~~159-84, bonds~~ and special obligation ~~bonds issued pursuant to Chapter~~
8 ~~159I of the General Statutes.~~ bonds issued pursuant to Chapter 159I of
9 the General Statutes or pursuant to Article 6A of this Chapter,
10 including any refunding bonds issued pursuant to G.S. 159-84 and
11 G.S. 159-115."

12 Sec. 4. G.S. 159-148 reads as rewritten:

13 **"§ 159-148. Contracts subject to Article; exceptions.**

14 (a) Except as provided in subsection (b) of this section, this Article applies to any
15 contract, agreement, memorandum of understanding, and any other transaction having
16 the force and effect of a contract (other than agreements made in connection with the
17 issuance of revenue bonds, special obligation ~~bonds~~ bonds issued pursuant to Chapter 159I
18 ~~of the General Statutes,~~ or of general obligation bonds additionally secured by a pledge of
19 revenues) made or entered into by a unit of local government (as defined by G.S. 159-
20 7(b) or, in the case of a special obligation ~~bond~~ bond issued under Chapter 159I of the
21 General Statutes, as defined in that Chapter), as defined in Chapter 159I of the
22 ~~Statutes),~~ relating to the lease, acquisition, or construction of capital assets, which
23 contract

- 24 (1) Extends for five or more years from the date of the contract, including
25 periods that may be added to the original term through the exercise of
26 options to renew or extend, and
27 (2) Obligates the unit to pay sums of money to another, without regard to
28 whether the payee is a party to the contract, and
29 (3) Obligates the unit over the full term of the contract, including periods
30 that may be added to the original term through the exercise of options
31 to renew or extend, to the extent of five hundred thousand dollars
32 (\$500,000) or a sum equal to one tenth of one percent (1/10 of 1%) of
33 the assessed value of property subject to taxation by the contracting
34 unit, whichever is less, and
35 (4) Obligates the unit, expressly or by implication, to exercise its power to
36 levy taxes either to make payments falling due under the contract, or to
37 pay any judgment entered against the unit as a result of the unit's
38 breach of the contract.

39 Contingent obligation shall be included in calculating the value of the contract.
40 Several contracts that are all related to the same undertaking shall be deemed a single
41 contract for the purposes of this Article. When several contracts are considered as a
42 single contract, the term shall be that of the contract having the longest term, and the
43 sums to fall due shall be the total of all sums to fall due under all single contracts in the
44 group.

1 (b) This Article shall not apply to:

- 2 (1) Contracts between a unit of local government and the State of North
3 Carolina or the United States of America (or any agency of either)
4 entered into as a condition to the making of grants or loans to the unit
5 of local government.
6 (2) Contracts for the purchase, lease, or lease with option to purchase of
7 motor vehicles or voting machines.
8 (3) Loan agreements entered into by a unit of local government pursuant
9 to the North Carolina Solid Waste Management Loan Program,
10 Chapter 159I of the General Statutes."

11 Sec. 5. G.S. 159-165(a) reads as rewritten:

12 "(a) Bond anticipation notes of a municipality, including special obligation bond
13 anticipation notes issued pursuant to Chapter 159I of the General Statutes, ~~Statutes or~~
14 pursuant to Article 6A of this Chapter, shall be sold by the Commission at public or
15 private sale according to such procedures as the Commission may prescribe. Bond
16 anticipation notes of the State shall be sold by the State Treasurer at public or private
17 sale, upon such terms and conditions, and according to such procedures as the State
18 Treasurer may prescribe."

19 Sec. 6. Interpretation of act. (a) The foregoing sections of this act shall be
20 deemed to provide an additional and alternative method for the doing of the things
21 authorized by the act, shall be regarded as supplemental and additional to powers
22 conferred by other laws, and shall not be regarded as in derogation of any powers now
23 existing.

24 (b) This act, being necessary for the health and welfare of the people of the State,
25 shall be liberally construed to effect its purposes.

26 (c) Insofar as the provisions of this act are inconsistent with the provisions of any
27 general laws, or parts thereof, the provisions of this act shall be controlling.

28 (d) Insofar as the provisions of this act are inconsistent with the provisions of any
29 local, special, or private laws, the provisions of those laws are repealed to the extent of
30 the conflict.

31 (e) If any provisions of this act or its application to any person or
32 circumstance is held invalid, the invalidity does not affect other provisions or
33 applications of the act that can be given effect without the invalid provisions or
34 application, and to this end the provisions of this act are severable.

35 (f) References in this act to specific sections of the General Statutes are
36 intended to be references to those sections as they may be amended from time to time
37 by the General Assembly.

38 Sec. 7. This act is effective upon ratification.