

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

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HOUSE BILL 474

Short Title: Industrial Revenue Bonds/AB.

(Public)

Sponsors: Representative Sutton.

Referred to: Finance.

March 10, 1997

A BILL TO BE ENTITLED

AN ACT TO CLARIFY WHICH PREINDUCEMENT EXPENDITURES MAY BE
FINANCED WITH INDUSTRIAL REVENUE BONDS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 159C-3 reads as rewritten:

"§ 159C-3. Definitions.

The following terms, whenever used or referred to in this Chapter, shall have the following respective meanings, unless a different meaning clearly appears from the context:

- (1) 'Agency' shall include any agency, bureau, commission, department or instrumentality.
- (2) 'Air pollution control facility' shall mean any structure, equipment or other facility for, including any increment in the cost of any structure, equipment or facility attributable to, the purpose of treating, neutralizing or reducing gaseous industrial waste and other air pollutants, including recovery, treatment, neutralizing or stabilizing plants and equipment and their appurtenances, which shall have been certified by the agency having jurisdiction to be in furtherance of the purpose of abating or controlling atmospheric pollutants or contaminants.

- 1 (3) 'Bonds' shall mean revenue bonds of an authority issued under the
2 provisions of this Chapter.
- 3 (4) 'Cost' as applied to any project shall embrace all capital costs thereof,
4 including the cost of construction, the cost of acquisition of all property,
5 including rights in land and other property, both real and personal and
6 improved and unimproved, the cost of demolishing, removing or
7 relocating any buildings or structures on lands so acquired, including the
8 cost of acquiring any lands to which such buildings or structures may be
9 moved or relocated, the cost of all machinery and equipment,
10 installation, start-up expenses, financing charges, interest prior to,
11 during and for a period not exceeding one year after completion of
12 construction, the cost of engineering and architectural surveys, plans
13 and specifications, the cost of consultants' and legal services, other
14 expenses necessary or incident to determining the feasibility or
15 practicability of such project, administrative and other expenses
16 necessary or incident to the acquisition or construction of such project
17 and the financing of the acquisition and construction thereof. The term
18 does not include costs that are being refinanced.
- 19 (5) 'Governing body' shall mean the board, commission, council or other
20 body in which the general legislative powers of any county or other
21 political subdivision are vested.
- 22 (6) 'Financing agreement' shall mean a written instrument establishing the
23 rights and responsibilities of the authority, operator, and obligor with
24 respect to a project financed by the issuance of bonds. A financing
25 agreement may be in the nature of a lease, a lease and leaseback, a sale
26 and leaseback, a lease purchase, an installment sale and purchase
27 agreement, a conditional sales agreement, a secured or unsecured loan
28 agreement or other similar contract and may involve property in
29 addition to the property financed with the bonds.
- 30 (7) 'Obligor' shall mean any person or persons, which may include the
31 operator, who shall be obligated under a financing agreement or
32 guaranty agreement or other contract or agreement to make payments to,
33 or for the benefit of, the holders of bonds of the authority. Any
34 requirement of an obligor may be satisfied by any one or more persons
35 who are defined collectively by this Chapter as the obligor.
- 36 (8) 'Operator' shall mean the person entitled to the use or occupancy of a
37 project.
- 38 (9) 'Political subdivision' shall mean any county, city, town, other unit of
39 local government or any other governmental corporation, agency,
40 authority or instrumentality of the State now or hereafter existing.
- 41 (10) 'Pollution' and 'pollutants' shall mean any noxious or deleterious
42 substances in any air or waters of or adjacent to the State of North
43 Carolina or affecting the physical, chemical or biological properties of

1 any air or waters of or adjacent to the State of North Carolina in a
2 manner and to an extent which renders or is likely to render such air or
3 waters harmful or inimical to the public health, safety or welfare, or to
4 animal, bird or aquatic life, or to the use of such air or waters for
5 domestic, industrial or agricultural purposes or recreation.

- 6 (11) 'Project' shall mean any land, equipment or any ~~one~~ one or more
7 buildings or other structures, whether or not on the same site or sites,
8 and any rehabilitation, improvement, renovation or enlargement of, or
9 any addition to, any building or structure for use as or in connection
10 with (i) any industrial project for industry which project may be any
11 industrial or manufacturing factory, mill, assembly plant or fabricating
12 plant, or freight terminal, or industrial research, development or
13 laboratory facility, or industrial processing facility or distribution
14 facility for industrial or manufactured products, or (ii) any pollution
15 control project for industry or for public utilities which project may be
16 any air pollution control facility, water pollution control facility, or solid
17 waste disposal facility in connection with any factory, mill or plant
18 described in clause (i) of this subdivision or in connection with a public
19 utility plant, or (iii) any combination of projects mentioned in clauses (i)
20 and (ii) of this subdivision. Any project may include all appurtenances
21 and incidental facilities such as land, headquarters or office facilities,
22 warehouses, distribution centers, access roads, sidewalks, utilities,
23 railway sidings, trucking and similar facilities, parking facilities, landing
24 strips and other facilities for aircraft, waterways, docks, wharves and
25 other improvements necessary or convenient for the construction,
26 maintenance and operation of any building or structure, or addition
27 thereto.

28 (11a) Refinance. – For the purpose of this Chapter, costs are refinanced if
29 they are incurred more than 60 days before inducement.

- 30 (12) 'Revenues' shall mean, with respect to any project, the rents, fees,
31 charges, payments, proceeds and other income or profit derived
32 therefrom or from the financing agreement or security document in
33 connection therewith.

- 34 (13) 'Security document' shall mean a written instrument or instruments
35 establishing the rights and responsibilities of the authority and the
36 holders of bonds issued to finance a project, and may provide for, or
37 be in the form of an agreement with, a trustee for the benefit of such
38 bondholders. A security document may contain an assignment,
39 pledge, mortgage or other encumbrance of all or part of the
40 authority's interest in, or right to receive revenues with respect to, a
41 project and any other property provided by the operator or other
42 obligor under a financing agreement and may bear any appropriate

- 1 title. A financing agreement and a security document may be
2 combined as one instrument.
- 3 (14) 'Solid waste' shall mean solid waste materials resulting from any
4 industrial or manufacturing activities or from any pollution control
5 facility.
- 6 (15) 'Solid waste disposal facility' shall mean a facility for the purpose of
7 treating, burning, compacting, composting, storing or disposing of
8 solid waste.
- 9 (16) 'Water pollution control facility' shall mean any structure,
10 equipment or other facility for, including any increment in the cost
11 of any structure, equipment or facility attributable to, the purpose of
12 treating, neutralizing or reducing liquid industrial waste and other
13 water pollution, including collecting, treating, neutralizing,
14 stabilizing, cooling, segregating, holding, recycling, or disposing of
15 liquid industrial waste and other water pollution, including necessary
16 collector, interceptor, and outfall lines and pumping stations, which
17 shall have been certified by the agency exercising jurisdiction to be
18 in furtherance of the purpose of abating or controlling water
19 pollution."

20 Section 2. This act is effective when it becomes law.