

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2011

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SENATE BILL 426  
Finance Committee Substitute Adopted 5/10/11

Short Title: Modify/Clarify Public Finance Statutes.

(Public)

Sponsors:

Referred to:

March 28, 2011

1 A BILL TO BE ENTITLED  
2 AN ACT TO MAKE CLARIFICATIONS AND MODIFICATIONS TO THE PUBLIC  
3 FINANCE STATUTES OF NORTH CAROLINA FOR THE IMPROVEMENT OF  
4 VARIOUS FINANCING STRUCTURES AND THE TERMS AND PROVISIONS OF  
5 THE FINANCING STRUCTURES AND TO REMOVE THE SUNSET ON SPECIAL  
6 ASSESSMENTS FOR CRITICAL INFRASTRUCTURE NEEDS.

7 The General Assembly of North Carolina enacts:

8 **SECTION 1.** G.S. 159-28(a) reads as rewritten:

9 "(a) Incurring Obligations. – No obligation may be incurred in a program, function, or  
10 activity accounted for in a fund included in the budget ordinance unless the budget ordinance  
11 includes an appropriation authorizing the obligation and an unencumbered balance remains in  
12 the appropriation sufficient to pay in the current fiscal year the sums obligated by the  
13 transaction for the current fiscal year. No obligation may be incurred for a capital project or a  
14 grant project authorized by a project ordinance unless that project ordinance includes an  
15 appropriation authorizing the obligation and an unencumbered balance remains in the  
16 appropriation sufficient to pay the sums obligated by the transaction. If an obligation is  
17 evidenced by a contract or agreement requiring the payment of money or by a purchase order  
18 for supplies and materials, the contract, agreement, or purchase order shall include on its face a  
19 certificate stating that the instrument has been preaudited to assure compliance with this  
20 ~~subsection.~~ subsection unless the obligation or a document related to the obligation has been  
21 approved by the Local Government Commission, in which case no certificate shall be required.  
22 The certificate, which shall be signed by the finance officer or any deputy finance officer  
23 approved for this purpose by the governing board, shall take substantially the following form:

24 "This instrument has been preaudited in the manner required by the Local Government  
25 Budget and Fiscal Control Act.

26 \_\_\_\_\_  
27 (Signature of finance officer)."

28 Certificates in the form prescribed by G.S. 153-130 or 160-411 as those sections read on June  
29 30, 1973, or by G.S. 159-28(b) as that section read on June 30, 1975, are sufficient until  
30 supplies of forms in existence on June 30, 1975, are exhausted.

31 An obligation incurred in violation of this subsection is invalid and may not be enforced.  
32 The finance officer shall establish procedures to assure compliance with this subsection."

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

34 "**§ 159-54. The bond order.**

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



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

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

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

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

30 **SECTION 4.** Section 5 of S.L. 2008-165 reads as rewritten:

31 "**SECTION 5.** This act is effective when it becomes law. ~~Sections 2 and 3 of this act expire~~  
32 ~~July 1, 2013. The expiration does not affect the validity of assessments imposed or bonds~~  
33 ~~issued or authorized under the provisions of this act prior to the effective date of the~~  
34 ~~expiration.~~"

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

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