

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1991

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HOUSE BILL 1018

Short Title: Mun. Power Agencies Financing.

(Public)

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Sponsors: Representative Kerr.

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Referred to: Public Utilities.

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April 19, 1991

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE JOINT MUNICIPAL POWER AGENCIES TO  
ENCUMBER PROPERTY FOR FINANCING PROJECTS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 159B-3(6) reads as rewritten:

"(6) 'Project' shall mean any system or facilities for the generation, transmission and transformation, or any of them, of electric power and energy by any means whatsoever including, but not limited to, any one or more electric generating units situated at a particular site, or any interest in the foregoing, whether an undivided interest as a tenant in common or otherwise. Project does not mean an administrative building or office or facilities related thereto."

Sec. 2. G.S. 159B-14 reads as rewritten:

**"§ 159B-14. Bonds of a joint agency.**

A joint agency may issue its bonds pledging to the payment thereof as to both principal and interest the revenues, or any portion thereof, derived or to be derived from all or any of its projects, and any additions and betterments thereto or extensions thereof, or from the sale of power and energy and services and facilities related to the utilization of power and energy, or contributions or advances from its members. In addition, bonds may be secured solely as described in G.S. 159B-11(8), solely by revenues as described in this section, or both by revenues and as described in G.S. 159B-11(8). Bonds of a joint agency shall be authorized by a resolution adopted by its governing board and spread upon its minutes."

Sec. 3. G.S. 159B-15(a) reads as rewritten:

1       "(a) Each municipality and joint agency is hereby authorized to issue at one time  
2 or from time to time its bonds for the purpose of paying all or any part of the cost of any  
3 of the purposes herein authorized. The principal of, premium, if any, and the interest on  
4 such bonds shall be payable solely from the ~~respective funds~~ and/or other property herein  
5 provided for such payment. The bonds of each issue shall bear interest at such rate or  
6 rates as may be determined by the Local Government Commission of North Carolina  
7 with the approval of the issuer, provided that the issuer or the Local Government  
8 Commission may by contract provide for the establishment and revision by an agent  
9 from time to time of interest rates on bonds that bear interest at a variable rate. The  
10 bonds of each issue shall be dated and shall mature in such amounts and at such time or  
11 times, not exceeding 50 years from their respective date or dates, as may be determined  
12 by the governing board of the issuer, and may be made redeemable before maturity at  
13 such price or prices and under such terms and conditions as may be fixed by the  
14 governing board of the issuer prior to the issuance of the bonds. The governing board of  
15 the issuer shall determine the form and the manner of execution of the bonds, including  
16 any interest coupons to be attached thereto, and shall fix the denomination or  
17 denominations of the bonds and the place or places of payment of principal and interest,  
18 which may be at any bank or trust company within or without the State. In case any  
19 officer whose signature or a facsimile of whose signature shall appear on any bonds or  
20 coupons shall cease to be such officer before the delivery of such bond, such signature  
21 or such facsimile shall nevertheless be valid and sufficient for all purposes the same as  
22 if he had remained in office until such delivery. The governing board of the issuer may  
23 also provide for the authentication of the bonds by a trustee or fiscal agent appointed by  
24 the issuer, or by an authenticating agent of any such trustee or fiscal agent. The bonds  
25 may be issued in coupon or in fully registered form, or both, as the governing board of  
26 the issuer may determine, and provisions may be made for the registration of any  
27 coupon bonds as to principal alone and also as to both principal and interest, and for the  
28 reconversion into coupon bonds of any bonds registered as to both principal and  
29 interest, and for the interchange of registered and coupon bonds. At the election of a  
30 joint agency, any bonds issued and sold in accordance with the provisions of this  
31 Chapter may be purchased or otherwise acquired by the joint agency and held by it in  
32 lieu of cancellation, and subsequently resold in accordance with the provisions of this  
33 Chapter."

34       Sec. 4. G.S. 159B-16(1) reads as rewritten:

35       "(1) The pledge of all or any part of the revenues derived or to be derived  
36 from the project or projects to be financed by the bonds, or from the  
37 sale or other disposition of power and energy and services and  
38 facilities related to the utilization of power and energy, ~~financed by the~~  
39 ~~bonds~~, or from the electric system or facilities of a municipality or a  
40 joint agency."

41       Sec. 5. G.S. 159-16 is amended by adding a new subdivision to read:

42       "(15) The pledge, assignment, mortgage, or grant of a security interest in any  
43 real or personal property or interest therein, including the pledge,  
44 assignment, or grant of a security interest in money, rents, charges, or

1           other revenues, and any other proceeds derived by the joint agency  
2           from the sales of any property, insurance, or condemnation awards;  
3           provided, however, that in the event of any default on any bonds  
4           secured by such pledge, assignment, mortgage, or grant of security  
5           interest, the rights of the holders thereof, and the liabilities arising  
6           thereupon, shall be limited, except to the extent provided in a pledge of  
7           revenues, contributions, or advances to secure such bonds as described  
8           in G.S. 159B-14, to the specific property, or interest therein, pledged,  
9           assigned, or mortgaged or in which a security interest was granted, to  
10           secure such bonds, and no claim for any deficiency shall be made, nor  
11           any judgment for a deficiency rendered, as a result of such pledge,  
12           assignment, mortgage, or grant of a security interest in such property,  
13           or interest therein."

14           Sec. 6. G.S. 159B-23 reads as rewritten:

15   **"§ 159B-23. Limited liability.**

16           The bonds shall be special obligations of the municipality or joint agency issuing  
17           them. The principal of, premium, if any, and interest on the bonds shall not be payable  
18           from the general funds of the municipality or joint agency, nor shall they constitute a  
19           legal or equitable pledge, charge, lien, or encumbrance upon any of its property or upon  
20           any of its income, receipts, or revenues, ~~except the funds which are pledged under as may~~  
21           be provided in the resolution authorizing the bonds or the trust agreement securing the  
22           bonds. Neither the faith and credit nor the taxing power of a municipality or of the State  
23           are, or may be, pledged for the payment of the principal of or interest on the bonds, and  
24           no holder of the bonds shall have the right to compel the exercise of the taxing power by  
25           the State or a municipality or the forfeiture of any of its property in connection with any  
26           default ~~thereon.~~ thereon, except with respect to such property to the extent provided in  
27           G.S. 159B-14 and G.S. 159B-16(15) and the resolution authorizing the bonds or the  
28           trust agreement securing the bonds. Every bond shall recite in substance that the  
29           principal of and interest on the bond is payable ~~solely from the revenues pledged to its~~  
30           payment and secured as provided in the resolution authorizing the bond or the trust  
31           agreement securing the bond and that the municipality or joint agency is not obligated to  
32           pay the principal or interest except from such revenues. as provided therein."

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