

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1995

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SENATE BILL 552

Short Title: Hospital Co. Contracts.

(Public)

Sponsors: Senator Cooper.

Referred to: Judiciary I/Constitution

April 3, 1995

A BILL TO BE ENTITLED

AN ACT TO CLARIFY THE LAW REGARDING PUBLIC HOSPITAL CONTRACTING.

The General Assembly of North Carolina enacts:

Section 1. G.S. 160A-20 reads as rewritten:

"§ 160A-20. Security interests.

(a) Units of local government, as defined in subsection (h), may purchase or finance the purchase of real or personal property by installment contracts that create in the property purchased a security interest to secure payment of the purchase price to the seller or to an individual or entity advancing moneys or supplying financing for the purchase transaction.

(b) Units of local government, as defined in subsection (h), may finance the construction or repair of fixtures or improvements on real property by contracts that create in the fixtures or improvements, or in all or some portion of the property on which the fixtures or improvements are located, or in both, a security interest to secure repayment of moneys advanced or made available for such construction or repair.

(c) Units of local government, as defined in subsection (h), may use escrow accounts in connection with the advance funding of transactions authorized by this section, whereby the proceeds of such advance funding are invested pending disbursement.

(d) No contract entered into under this section may contain a nonsubstitution clause that restricts the right of a unit of local government to:

- (1) Continue to provide a service or activity; or

1 (2) Replace or provide a substitute for any fixture, improvement, project,  
2 or property financed or purchased pursuant to such contract.

3 (e) A contract entered into under this section is subject to approval by the Local  
4 Government Commission under Article 8 of Chapter 159 of the General Statutes if it:

5 (1) Meets the standards set out in G.S. 159-148(a)(1), 159-148(a)(2), and  
6 159-148(a)(3), or involves the construction or repair of fixtures or  
7 improvements on real property; and

8 (2) Is not exempted from the provisions of that Article by one of the  
9 exemptions contained in G.S. 159-148(b).

10 (f) No deficiency judgment may be rendered against any unit of local  
11 government in any action for breach of a contractual obligation authorized by this  
12 section, and the taxing power of a unit of local government is not and may not be  
13 pledged directly or indirectly to secure any moneys due under a contract authorized by  
14 this section.

15 (g) Before entering into a contract under this section involving real property, a  
16 unit of local government shall hold a public hearing on the contract. A notice of the  
17 public hearing shall be published once at least 10 days before the date fixed for the  
18 hearing. Any contract entered into under this section by a public hospital as a unit of  
19 local government shall be subject to the approval of the Local Government Commission  
20 pursuant to Article 8 of Chapter 159 of the General Statutes.

21 (h) As used in this section, the term 'unit of local government' means any of the  
22 following:

23 (1) A county.

24 (2) A city.

25 (3) A water and sewer authority created under Article 1 of Chapter 162A  
26 of the General Statutes.

27 (4) An airport authority whose situs is entirely within a county that has (i)  
28 a population of over 120,000 according to the most recent federal  
29 decennial census and (ii) an area of less than 200 square miles.

30 (5) An airport authority in a county in which there are two incorporated  
31 municipalities with a population of more than 65,000 according to the  
32 most recent federal decennial census.

33 (6) A local school administrative unit (i) that is located in a county that  
34 has a population of over 90,000 according to the most recent federal  
35 decennial census and (ii) whose board of education is authorized to  
36 levy a school tax.

37 (7) An area mental health, developmental disabilities, and substance abuse  
38 authority, acting in accordance with G.S. 122C-147.

39 (8) A public hospital as defined in Part 4 of Article 3 of Chapter 159 of the  
40 General Statutes."

41 Sec. 2. This act becomes effective October 1, 1995, and applies to contracts  
42 entered into on or after that date.