

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2005

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HOUSE BILL 1117  
Committee Substitute Favorable 4/20/05  
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Short Title: Public Finance Changes.

(Public)

Sponsors:

Referred to:

April 5, 2005

1 A BILL TO BE ENTITLED  
2 AN ACT TO MAKE CHANGES TO STATE AND LOCAL GOVERNMENT  
3 FINANCE LAWS.

4 The General Assembly of North Carolina enacts:

5 **SECTION 1.** G.S. 158-7.3(c) reads as rewritten:

6 "(c) Development Financing District. – A development financing district created  
7 pursuant to this section must be comprised of property that is one or more of the  
8 following:

- 9 (1) Blighted, deteriorated, deteriorating, undeveloped, or inappropriately  
10 developed from the standpoint of sound community development and  
11 growth.  
12 (2) Appropriate for rehabilitation or conservation activities.  
13 (3) Appropriate for the economic development of the community.

14 The total land area within development financing districts in a unit, including  
15 development financing districts created pursuant to G.S. 160A-515.1, may not exceed  
16 five percent (5%) of the total land area of the unit. For the purposes of this section, land  
17 in a district created by a county that subsequently becomes part of a city, town, or  
18 incorporated village does not count against the five-percent (5%) limit for the city,  
19 town, or incorporated village unless the city, town, or incorporated village and the  
20 county have entered into an agreement pursuant to G.S. 159-107(e). A county may not  
21 include in a district created pursuant to this section any land that, at the time the district  
22 is created, is inside a city, town, or incorporated village."

23 **SECTION 2.** G.S. 159-29(a) reads as rewritten:

24 "(a) The finance officer shall give a true accounting and faithful performance  
25 bond with sufficient sureties in an amount to be fixed by the governing board, not less  
26 than ~~ten thousand dollars (\$10,000) nor more than two hundred fifty thousand dollars~~  
27 ~~(\$250,000).~~ fifty thousand dollars (\$50,000). The premium on the bond shall be paid by  
28 the local government or public authority."

1           **SECTION 3.** Article 4 of Chapter 159 of the General Statutes is amended by  
2 adding a new section to read:

3 **"§ 159-68. Certain provisions not applicable to refunding bonds.**

4       The provisions of G.S. 159-56 and the provisions of this Article related to the  
5 holding of a public hearing prior to the adoption of the bond order do not apply to  
6 refunding bonds issued by a unit of local government so long as the refunding bonds do  
7 not extend the final maturity of the debt or obligation to be refunded and so long as the  
8 aggregate debt service over the life of the refunding bonds is less than the aggregate  
9 debt service on the debt or obligation to be refunded. When the conditions of this  
10 section are satisfied, a unit of local government may introduce a bond order, adopt a  
11 bond order, and adopt a sale resolution with respect to refunding bonds in one or more  
12 meetings of the unit's governing body."

13       **SECTION 4.** G.S. 159-83(a)(5) reads as rewritten:

14       "(5) To borrow money for the purpose of acquiring, constructing,  
15 reconstructing, extending, bettering, improving, or otherwise paying  
16 the cost of revenue bond projects, ~~and~~ to issue its revenue bonds or  
17 bond anticipation notes therefor, in the name of the State or a  
18 municipality, as the case may be, ~~but no encumbrance, mortgage, or~~  
19 ~~other pledge or real property of the State or a municipality may be~~  
20 ~~created in any manner and to pledge, mortgage, or grant a security~~  
21 ~~interest in all or a portion of the real and personal property comprising~~  
22 ~~the utility or public enterprise facility or system acquired, constructed,~~  
23 ~~reconstructed, extended, bettered, or improved with the proceeds of the~~  
24 ~~borrowing. Property subject to a mortgage, deed of trust, security~~  
25 ~~interest, or similar lien pursuant to this subdivision may be sold at~~  
26 ~~foreclosure in any manner permitted by the instrument creating the~~  
27 ~~encumbrance, without compliance with any other provision of law~~  
28 ~~regarding the disposition of publicly owned property."~~

29       **SECTION 5.** G.S. 159-107(e) reads as rewritten:

30       "(e) Increment Agreements. – Effect of Annexation on District Established by a  
31 County. – If a city annexes land in a development financing district established by a  
32 county pursuant to G.S. 158-7.3, the proceeds of all taxes levied by the city on property  
33 within the district shall be paid to the city unless the city enters into an agreement with  
34 the county pursuant to this ~~subsection~~, and the annexed land in the county's  
35 ~~district that subsequently becomes a part of the city does not count against the city's~~  
36 ~~five-percent (5%) limit under G.S. 158-7.3 or G.S. 160A-515.1 unless the city and the~~  
37 ~~county enter into an agreement pursuant to this section. The city and the county may~~  
38 enter into an increment agreement under which the city agrees that city taxes on part or  
39 all of the incremental valuation in the district shall be paid into the revenue increment  
40 fund for the district. An increment agreement may be entered into when the district is  
41 established or at any time after the district is established. The increment agreement may  
42 extend for the duration of the district or for a shorter time agreed to by the parties."

43       **SECTION 6.** G.S. 159-111(b) reads as rewritten:

1       "(b) In order to provide additional security for debt instruments issued pursuant to  
2 this Article, and in lieu of pledging its faith and credit for that purpose pursuant to  
3 subsection (a) of this section, a unit of local government may ~~agree to apply to the~~  
4 ~~payment of the instruments~~ pledge or grant a security interest in any available sources of  
5 revenues of the unit, including special assessments against property within the  
6 development financing district made by the unit pursuant to Article 9 of Chapter 153A  
7 of the General Statutes or Article 10 of Chapter 160A of the General Statutes, as long as  
8 ~~the agreement to use the sources to make payment~~ doing so does not constitute a pledge  
9 of the unit's taxing ~~power or of the unit's revenues derived from local sales taxes.~~ power.  
10 In addition, to the extent the generation of the revenues is within the power of the unit,  
11 the unit may enter into covenants to take action in order to generate the revenues, as  
12 long as the covenant does not constitute a pledge of the unit's taxing power. In addition,  
13 the unit may pledge, mortgage, or grant a security interest in all or a portion of the real  
14 and personal property being financed or improved with the proceeds of the project  
15 development financing debt instrument. Property subject to a mortgage, deed of trust,  
16 security interest, or similar lien pursuant to this subsection may be sold at foreclosure in  
17 any manner permitted by the instrument creating the encumbrance, without compliance  
18 with any other provision of law regarding the disposition of publicly owned property."

19               **SECTION 7.** G.S. 159-125 reads as rewritten:

20       "**§ 159-125. Bid instructions; bid deposit.**

21       (a) Except for revenue bonds, no bid for less than the ninety-eight percent (98%)  
22 of the face value of the bonds plus one hundred percent (100%) of accrued interest may  
23 be entertained.

24       Different rates of interest may be bid for bonds maturing in different ~~years,~~ but years  
25 and different rates of interest may not be bid for bonds maturing in the same year-year  
26 unless the Secretary of the Commission requires one interest rate per maturity in  
27 connection with the sale of the bonds. This subsection applies to public sale of bonds  
28 only.

29       (b) ~~Each bid shall be~~ The Secretary of the Commission may require that bids be  
30 accompanied by a bid deposit equal to two percent (2%) of the aggregate principal  
31 amount of the bond issue. The in an amount prescribed by the Secretary of the  
32 Commission or may determine that no bid deposit is required. If required, the bid  
33 deposit shall be made in a form approved by the Secretary of the Commission, and shall  
34 secure the issuing unit against loss resulting from the bidder's failure to comply with the  
35 terms of the bid. his bid. This subsection shall not apply to bids entered by a State or  
36 federal agency.

37       (c) When a State or federal agency has agreed to purchase the bonds at a stated  
38 rate of interest unless more favorable bids are received, bids may be entertained from  
39 other purchasers for less than all of the bonds."

40               **SECTION 8.** G.S. 159-127 reads as rewritten:

41       "**§ 159-127. Award of bonds.**

42       All bids received pursuant to a public sale shall be opened in public on a date and at  
43 a time and place to be specified in the notice of sale. ~~The bond~~ Bonds sold at public sale  
44 shall be awarded to the bidder offering to purchase the bonds at the lowest interest cost

1 to the issuing unit. In calculating such interest cost, the amount of any premium bid  
2 shall be deducted from the aggregate amount of interest on the entire issue until  
3 maturity-unit calculated in the manner established by the Secretary of the Commission  
4 in the notice of sale."

5 **SECTION 9.** G.S. 159-139 reads as rewritten:

6 **"§ 159-139. Destruction of cancelled bonds, notes, and coupons.**

7 (a) All cancelled bonds, notes, and interest coupons of a unit may be destroyed in  
8 one of the following ways, in the discretion of the governing board:

9 (1) Method 1. – The finance officer shall make an entry in ~~a substantially~~  
10 ~~bound book kept by him for the purpose of recording the destruction of~~  
11 ~~bonds, notes, and coupons, showing~~ the official records of the unit,  
12 which may include the register for the bonds, notes, and coupons,  
13 showing:

14 a. With respect to bonds and notes, the purpose of issuance, the  
15 date of issue, serial numbers (if any), denomination, maturity  
16 date, and total principal amount.

17 b. With respect to coupons, the purpose of issue and date of the  
18 bonds to which the coupons appertain, the maturity date of the  
19 coupons and, as to each maturity date, the denomination,  
20 quantity, and total amount of coupons.

21 After this entry has been made, the paid bonds, notes, and coupons  
22 shall be destroyed or marked cancelled in the manner determined by  
23 the finance officer, who shall make an entry of the destruction or  
24 cancellation in the official records of the unit. ~~by either burning or~~  
25 ~~shredding, in the presence of the mayor or chairman of the governing~~  
26 ~~board, the finance officer, the unit's attorney, and the clerk to the~~  
27 ~~governing board, or any three of them, each of whom shall certify~~  
28 ~~under his hand in the book kept by the finance officer that he saw the~~  
29 ~~bonds and coupons destroyed.~~ Cancelled bonds, notes, or coupons  
30 shall not be destroyed until after one year from the date of payment.

31 (2) Method 2. – The governing board may contract with the bank, trust  
32 company or other person acting as fiscal agent for a bond issue for the  
33 destruction of bonds and interest coupons which have been cancelled  
34 by the fiscal agent. The contract shall require that the fiscal agent give  
35 the unit a written certificate of each destruction containing the same  
36 information required by Method 1 to be entered in the record of  
37 destroyed bonds and coupons. The certificates shall be filed among the  
38 permanent records of the finance officer's office. Cancelled bonds or  
39 coupons shall not be destroyed until one year from the date of  
40 payment.

41 (b) The provisions of G.S. 121-5 and G.S. 132-3 ~~shall do not~~ apply to paid bonds,  
42 notes, and coupons. The information required to be ~~entered in a substantially bound~~  
43 ~~book recorded~~ prior to destruction under either Method 1 or Method 2 may as an

1 alternative, be shown by photocopying, microfilming or other similar method of  
2 recording the information by directly reproducing the cancelled documents."

3 **SECTION 10.** G.S. 159C-3(15a) reads as rewritten:

4 "**§ 159C-3. Definitions.**

5 The following definitions apply in this Chapter:

6 ...

7 (15a) Special purpose project. – Any structure, equipment, or other facility  
8 for any one or more of the following purposes:

- 9 a. Water systems or facilities, including all plants, works,  
10 instrumentalities, and properties used or useful in obtaining,  
11 conserving, treating, and distributing water for domestic or  
12 industrial use, irrigation, sanitation, fire protection, or any other  
13 public or private use.
- 14 b. Sewage disposal systems or facilities, including all plants,  
15 works, instrumentalities, and properties used or useful in the  
16 collection, treatment, purification, or disposal of sewage, other  
17 than facilities constituting a water pollution control facility.
- 18 c. Public transportation systems, facilities, or equipment,  
19 including bus, truck, ferry, and railroad terminals, depots,  
20 trackage, vehicles, and ferries, and mass transit systems.
- 21 d. Public parking lots, areas, garages, and other public vehicular  
22 parking structures and facilities.
- 23 e. Public auditoriums, gymnasiums, stadiums, and convention  
24 centers.
- 25 f. ~~Recreational facilities-facilities, including museums.~~
- 26 g. Land, equipment, and facilities for the disposal, treatment, or  
27 recycling of solid or other waste that are described in  
28 G.S. 159I-8.
- 29 h. Facilities for the provision of rehabilitation services, education,  
30 training, and employment opportunities for persons with  
31 disabilities and the disadvantaged. The term does not include a  
32 retail facility, however, unless the proposed operator of the  
33 facility certifies that at least seventy-five percent (75%) of its  
34 employees will be disadvantaged or disabled persons and at  
35 least seventy-five percent (75%) of its inventory will be  
36 composed of used, donated items and items manufactured by  
37 disadvantaged or disabled persons."

38 **SECTION 11.** G.S. 159G-18(a) reads as rewritten:

39 "(a) Applicants may execute debt instruments payable to the State in order to  
40 obtain revolving loans provided for in this Chapter. Applicants shall pledge as security  
41 for such obligations the user fee revenues derived from operation of the benefited  
42 facilities or systems ~~only, only~~; or other sources of ~~revenue, revenue~~; or their faith and  
43 ~~credit, credit~~; or a mortgage, deed of trust, security interest, or similar lien on all or a  
44 portion of the real and personal property comprising the utility or public enterprise

1 facility or system acquired, constructed, reconstructed, extended, bettered, or improved  
2 with the proceeds of the borrowing; or any combination thereof. The faith and credit of  
3 applicants that are local government units shall not be pledged or be deemed to have  
4 been pledged unless the requirements of Article 4, Chapter 159 of the General Statutes  
5 have been met. The State Treasurer, with the assistance of the Local Government  
6 Commission, shall develop and adopt appropriate debt instruments for use by applicants  
7 under this Chapter. The Local Government Commission shall develop and adopt  
8 appropriate procedures for the delivery of debt instruments by applicants to the State  
9 without any public bidding therefor."

10 **SECTION 12.** G.S. 160A-515.1(b) reads as rewritten:

11 "(b) Development Financing District. – A development financing district shall  
12 comprise all or portions of one or more redevelopment areas defined pursuant to this  
13 Article. The total land area within development financing districts in a city, including  
14 development financing districts created pursuant to G.S. 158-7.3, may not exceed five  
15 percent (5%) of the total land area of the city. For purposes of this section, land in a  
16 district created by a county that subsequently becomes part of a city does not count  
17 against the city's five-percent (5%) limit unless the city and the county have entered into  
18 an agreement pursuant to G.S. 159-107(e)."

19 **SECTION 13.** This act becomes effective July 1, 2005.