

NORTH CAROLINA GENERAL ASSEMBLY
1977 SESSION

CHAPTER 643
HOUSE BILL 1070

AN ACT TO AUTHORIZE THE ISSUANCE OF THREE HUNDRED MILLION DOLLARS
OF BONDS OF THE STATE TO PROVIDE FUNDS FOR THE CONSTRUCTION OF
HIGHWAYS SUBJECT TO A VOTE OF THE QUALIFIED VOTERS OF THE STATE.

The General Assembly of North Carolina enacts:

Section 1. This act shall be known and may be cited as the "State Highway Bond Act of 1977".

Sec. 2. Subject to a favorable vote of a majority of the qualified voters of the State who shall vote in an election called and held as hereinafter provided, the State Treasurer is hereby authorized, by and with the consent of the Council of State, to issue and sell, at one time or from time to time, bonds of the State to be designated "State of North Carolina Highway Bonds" in an aggregate principal amount not exceeding three hundred million dollars (\$300,000,000) for the purpose of providing funds, with any other funds available therefor, for constructing, improving or relocating roads, bridges, tunnels and other highway facilities constituting at the time of such construction, improvement or relocation a part of the State highway system.

Sec. 3. The proceeds of said bonds are hereby appropriated to the North Carolina Department of Transportation, which appropriation shall be in addition to all other appropriations heretofore made or which may be made at the present session of the General Assembly. Said proceeds shall be used by the North Carolina Board of Transportation, except as provided in Section 8 of this act, exclusively for the purpose provided in Section 2 of this act, and the particular projects within such purpose to be financed in whole or in part from said proceeds shall be determined from time to time by the North Carolina Board of Transportation. Said proceeds shall be disbursed for said projects upon warrants drawn by the State Disbursing Officer, which warrants shall not be drawn until an allotment has been approved by the Director of the Budget, and which allotment shall be approved after full compliance with the Executive Budget Act, Article 1, Chapter 143 of the General Statutes.

Obligations by contract or work order for the construction, improvement or relocation of highway facilities, including obligations for engineering services and the acquisition of land requiring the use of proceeds of the sale of bonds or bond anticipation notes authorized under the provisions of this act, shall not be incurred in an aggregate amount exceeding sixty million dollars (\$60,000,000) in the first fiscal year, beginning July 1, 1977, or in an aggregate amount exceeding one hundred twenty million dollars (\$120,000,000) in the first two fiscal years, or in an aggregate amount exceeding one hundred eighty million dollars (\$180,000,000) in the first three fiscal years, or in an aggregate amount exceeding two hundred forty million dollars (\$240,000,000) in the first four fiscal years, or in an aggregate amount exceeding three hundred million dollars (\$300,000,000) in the first five fiscal years.

The proceeds of said bonds may be used with any federal funds which might be made available for the purposes set forth above and the North Carolina Board of Transportation or any other governmental unit is authorized to apply for and accept any federal funds and agree to the terms and conditions under which such federal funds shall be made available. The provisions of this act shall not be applicable to any such federal funds.

Sec. 4. The proceeds of said bonds shall be expended by the North Carolina Board of Transportation for the construction, improving or relocating of highway facilities as follows:

- (a) one hundred seventy-five million dollars (\$175,000,000) on the primary system of State highways as defined herein which amount is to be allocated for expenditure by the Board of Transportation;
- (b) seventy-five million dollars (\$75,000,000) on the secondary system of State highways as defined herein to be allocated by the Board of Transportation in accordance with the formula presently set out in G.S. 136-44.5;
- (c) fifty million dollars (\$50,000,000) on the urban system of State highways as defined herein to be allocated by the Board of Transportation. Rights-of-way for such streets and highways shall be acquired under and pursuant to the provisions of G.S. 136-66.3.

As used herein, the three State highway systems are defined as follows: The State primary system shall include all portions of the State highway system located outside municipal corporate limits which are designated by N.C., U.S. or Interstate numbers. The State secondary system shall include all of the State highway system located outside municipal corporate limits that is not a part of the State primary system. The State urban system shall include all portions of the State highway system located within municipal corporate limits.

Sec. 5. The bonds herein authorized shall bear such date or dates, shall be serial bonds and shall mature at such times and in such amounts, not exceeding 30 years from their date or dates, shall bear interest at such rate or rates, and may be made redeemable before maturity, at the option of the State, at such price or prices and under such terms and conditions, as may be fixed by the State Treasurer with the approval of the Council of State.

Sec. 6. The bonds issued pursuant to this act shall be signed on behalf of the State of North Carolina by the Governor or shall bear his facsimile signature; shall be signed by the State Treasurer or shall bear his facsimile signature; shall bear the Great Seal of the State or a facsimile thereof impressed or imprinted thereon; and shall carry interest coupons which shall bear a facsimile of the signature of the State Treasurer. In the event that the bonds shall bear the facsimile signature of the State Treasurer, the bonds shall also be signed by an assistant as designated by the State Treasurer. Should any officer whose signature or facsimile appears on any bonds or coupons cease to be such officer before the delivery of the bonds, such signature or facsimile shall nevertheless have the same validity for all purposes as if the officer had remained in office until delivery. The form and denomination of the bonds shall be as the State Treasurer may determine in conformity with this act, and the bonds shall be subject to registration as is now or hereafter may be provided by law for State bonds, and provision may also be made for the reconversion into coupon bonds of any bonds registered as to both principal and interest.

Sec. 7. The bonds and any notes issued pursuant to this act, and any interest coupons appertaining thereto, shall be made payable at one or more banks or trust companies within or without the State as shall be designated by the State Treasurer or at the office of the State Treasurer in Raleigh, as the State Treasurer shall determine.

Sec. 8. Subject to determination by the Council of State of the manner in which the bonds shall be offered for sale, whether by publishing notices in certain newspapers and financial journals or by mailing notices or by inviting bids by correspondence or otherwise, the State Treasurer is authorized to sell the bonds at one time or from time to time at the best price obtainable, but in no case for less than par and accrued interest. All expense necessarily incurred in the preparation, sale and issuance of the bonds and any bond anticipation notes herein authorized shall be paid by the State Treasurer from the proceeds of the sale of such bonds or bond anticipation notes.

Sec. 9. The proceeds of sale of the bonds and of the bond anticipation notes herein authorized, including premium thereon, if any, except the proceeds of bonds the issuance of

which has been anticipated by such bond anticipation notes, shall be placed by the State Treasurer in a special fund known as the "State Highway Bond Act of 1977 Bond Fund", and shall be disbursed as herein provided.

Sec. 10. By and with consent of the Council of State, who shall determine the rate or rates or maximum rate of interest and the date or approximate date of payment, the State Treasurer is hereby authorized to borrow money at the lowest rate of interest obtainable and to execute and issue notes of the State for the same, but only in the following circumstances and under the following conditions:

- (a) for anticipating the sale of any of said bonds to the issuance of which the Council of State shall have given consent, if the State Treasurer shall deem it advisable to postpone the issuance of such bonds;
- (b) for the payment of interest upon or any installment of principal of any said bonds then outstanding, if there shall not be sufficient funds in the State Treasury with which to pay such interest or installment of principal as they respectively fall due; or
- (c) for the renewal of any loan evidenced by notes herein authorized.

Sec. 11. Funds derived from the sale of bonds herein authorized shall be used in the payment of any bond anticipation notes that may have been issued in anticipation of the sale of such bonds and any renewals of such notes, and funds provided by the General Assembly for the payment of interest on or principal of bonds herein authorized shall be used in paying the interest on or principal of any notes and any renewals thereof the proceeds of which shall have been used in paying interest on or principal of such bonds. Interest payable upon said notes may be evidenced by interest coupons in the State Treasurer's discretion.

Sec. 12. The full faith, credit and taxing power of the State are hereby pledged for the payment of the principal of and the interest on the bonds and notes herein authorized.

Sec. 13. The coupons appertaining to the bonds and notes after maturity shall be receivable in payment of all taxes, debts, dues, licenses, fines and demands of any kind whatsoever due the State.

Sec. 14. All of the bonds, notes and coupons authorized by this act shall be exempt from all State, county and municipal taxation or assessment, direct or indirect, general or special, whether imposed for the purpose of general revenue or otherwise, and the interest on said bonds and notes shall not be subject to taxation as to income, nor shall said bonds or notes or coupons be subject to taxation when constituting a part of the surplus of any bank, trust company or other corporation.

Sec. 15. It shall be lawful for all executors, administrators, guardians and fiduciaries generally, and all sinking fund commissions, to invest any moneys in their hands in said bonds and notes.

Sec. 16. The question of the issuance of the three hundred million dollars (\$300,000,000) State of North Carolina Highway Bonds authorized by this act shall be submitted to the qualified voters of the State of North Carolina at an election to be held on a date in 1977 to be fixed by the Governor by proclamation issued by him, but in any event not later than November 8, 1977; provided, that the election herein provided for may be held on the same day as any other State, county, municipal or district election, and any other State, county, municipal or district election may be validly held on the same day as the bond election provided for in this act. Notice of the bond election shall be given by publication at least twice in a newspaper published in each county in the State or having a general circulation therein, and the election and the registration of voters therefor shall be held under and in accordance with the general laws of the State. Absentee ballots shall be authorized in this election. The State Board of Elections shall reimburse the counties of the State for all necessary expenses incurred in holding said election and registration therefor, the same to be paid out of the State Highway Fund, unless the payment of such expenses is otherwise expressly provided for. The

State Board of Elections shall cause to be printed and distributed the ballots which are to be used in said election, which ballots shall be substantially in the following form:

"OFFICIAL BALLOT.

"THREE HUNDRED MILLION DOLLARS STATE OF
NORTH CAROLINA HIGHWAY BONDS.

"Instructions for Marking Ballot.

"(a) To vote in favor of the issuance of the bonds, make a cross (x) mark in the square opposite the words 'For the Issuance of Three Hundred Million Dollars (\$300,000,000) State of North Carolina Highway Bonds'.

(b) To vote against the issuance of bonds, make a cross (x) mark in the square opposite the words 'Against the Issuance of Three Hundred Million Dollars (\$300,000,000) State of North Carolina Highway Bonds'.

(c) If you tear or deface or wrongly mark this ballot, return it and get another.

- FOR the Issuance of Three Hundred Million Dollars (\$300,000,000) State of North Carolina Highway Bonds.
- AGAINST the Issuance of Three Hundred Million Dollars (\$300,000,000) State of North Carolina Highway Bonds.

(Facsimile Signature)

Chairman, State Board of Elections"

Those voting in said election who are in favor of the issuance of said bonds shall vote by making an "x" in the square opposite the words "For the Issuance of Three Hundred Million Dollars (\$300,000,000) State of North Carolina Highway Bonds".

Those opposed to the issuance of said bonds shall vote by making an "x" in the square opposite the words "Against the Issuance of Three Hundred Million Dollars (\$300,000,000) State of North Carolina Highway Bonds".

Notwithstanding the foregoing provisions of this section, voting machines may be used in accordance with rules and regulations prescribed by the State Board of Elections.

If a majority of those voting in said election shall vote in favor of the issuance of the bonds, the bonds shall be issued as hereinbefore provided. In the event a majority of those voting in said election shall vote against the issuance of the bonds, the bonds shall not be issued.

The result of the election shall be canvassed and declared as provided by law for the holding of elections for State officers and the result thereof certified by the State Board of Elections to the Secretary of State of North Carolina, in the manner and at the time provided by the general election laws of the State.

Sec. 17. The proceeds of the additional one cent (1¢) per gallon tax on motor fuels provided for in Chapter 1250, Public Laws of 1949 (herein called the "1949 Tax"), and continued in force and applied to the payment of the principal or redemption premium of and the interest on the State of North Carolina Highway Bonds authorized and issued under the provisions of Chapter 46 of the 1965 Session Laws, as amended by Chapter 913 of said Session Laws (herein called the "1965 Bonds") held in the State Highway Fund on June 30 of any fiscal year in excess of the interest becoming due on the next interest payment date and the principal becoming due on the next maturity date on any outstanding 1965 Bonds shall be applied exclusively to the payment of the principal of and the interest on the State of North Carolina Highway Bonds authorized and issued under the provisions of this act (herein called the "1977 Bonds"); provided, however, that if on June 30 of any fiscal year the unexpended proceeds of the 1949 Tax then held in the State Highway Fund shall exceed the interest becoming due on the next interest payment date and the principal becoming due on the next maturity date on any outstanding 1965 Bonds and any outstanding 1977 Bonds, such excess may be used for the redemption of the 1965 Bonds or the 1977 Bonds or, while any of the 1965 Bonds shall be outstanding or sufficient funds for the payment thereof are not provided for or set aside, for

purposes for which appropriations were made from the State Highway Fund as of the effective date of said Chapter 46 and, after the retirement of the 1965 Bonds or the providing for or setting aside of sufficient funds for their payment, for any purposes for which moneys in the State Highway Fund are then by law available.

Subject to the existing pledge of the revenues accruing to the State Highway Fund for paying the principal of and the interest on the 1965 Bonds and subject to the provisions of this section, there are hereby appropriated and irrevocably pledged to the payment of the principal of and the interest on the 1977 Bonds so much of the revenues accruing to the State Highway Fund as shall be required for such purpose. Until all of the bonds issued and outstanding under the authority of this act and the interest and any redemption premium thereon shall be fully paid or sufficient funds for such purpose shall have been provided and set aside, the tax on motor fuels, including the 1949 Tax, and automobile license fees to the extent hereby required shall not be repealed, diminished or applied to any purpose other than State Highway Fund purposes, and moneys of the State Highway Fund shall not be diverted to any purpose other than those purposes for which appropriations are now made from said fund.

Sec. 18. All laws and clauses of laws in conflict with this act are hereby repealed.

Sec. 19. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 21st day of June, 1977.