

NORTH CAROLINA GENERAL ASSEMBLY
1977 SESSION

CHAPTER 719
HOUSE BILL 1153

AN ACT AMENDING CHAPTER 159C OF THE GENERAL STATUTES WHICH AUTHORIZES COUNTIES TO CREATE AUTHORITIES TO ISSUE BONDS TO FINANCE INDUSTRIAL AND POLLUTION CONTROL PROJECTS, TO REVISE THE PROVISIONS THEREOF RELATING TO ELIGIBILITY REQUIREMENTS FOR APPOINTMENT TO AN AUTHORITY, TO THE AVERAGE MANUFACTURING WAGE REQUIREMENT FOR INDUSTRIAL PROJECTS, TO THE TAXATION OF PROJECTS AND TAX EXEMPTION OF INTEREST ON BONDS, TO CONTRACTS FOR THE ACQUISITION AND CONSTRUCTION OF PROJECTS, AND TO CONFLICTS OF INTEREST, TO ADD PROVISIONS PERMITTING THE SUBORDINATION OF BONDS TO OTHER SECURITY INTERESTS AND PROVIDING THAT THE LOCAL GOVERNMENT BUDGET AND FISCAL CONTROL ACT SHALL NOT APPLY TO AUTHORITIES, AND TO REPEAL PROVISIONS REQUIRING AN ANNUAL AUDIT.

The General Assembly of North Carolina enacts:

Section 1. G.S. 159C-4(b) is hereby amended by rewriting the first sentence thereof to read as follows:

"Each commissioner of an authority shall be a qualified elector and resident of the county for which the authority is created, and no commissioner shall be an elected official of the county for which the authority is created."

Sec. 2. G.S. 159C-7(1)a. is hereby rewritten to read as follows:

"a. That the operator of the proposed project pays, or has agreed to pay thereafter, an average weekly manufacturing wage (i) which is above the average weekly manufacturing wage paid in the county, or (ii) which is not less than twenty percent (20%) above the average weekly manufacturing wage paid in the State, and".

Sec. 3. G.S. 159C-7 is hereby amended by rewriting the third paragraph thereof to read as follows:

"In any case where the secretary shall make all of the required findings respecting a proposed industrial project except that prescribed in subparagraph (1)a. of this section, the secretary may, in his discretion, approve the proposed project if he shall have received (i) a resolution of the governing body of the county requesting that the proposed project be approved notwithstanding that the operator will not pay an average weekly manufacturing wage above the average weekly manufacturing wage in the county and (ii) a letter from an appropriate State official, selected by the secretary, to the effect that unemployment in the county is especially severe."

Sec. 4. G.S. 159C-12 is hereby amended as follows:

(1) The first sentence of the first paragraph thereof is hereby rewritten to read as follows:

"Bonds issued under the provisions of this Chapter may be secured by a security document which may be a trust instrument between the authority and a bank or trust company or individual within the State, or a bank or a trust company without the State, as trustee."

(2) A fourth paragraph is added to read as follows:

"The authority may subordinate the bonds or its rights under the lease agreement or otherwise to any prior, contemporaneous or future securities or obligations or lien, mortgage or other security interest."

Sec. 5. G.S. 159C-14 is hereby rewritten to read as follows:

"§ 159C-14. Tax exemption. — The authority shall not be required to pay any taxes on any project or on any other property owned by the authority under the provisions of this Chapter or upon the income therefrom.

The interest on bonds issued by the authority shall be exempt from all income taxes within the State.

All projects and all transactions therefor shall be subject to taxation to the extent such projects and transactions would be subject to taxation if no public body were involved therewith."

Sec. 6. G.S. 159C-15 is hereby rewritten to read as follows:

"§ 159C-15. Construction contracts. — The authority may agree with the prospective operator that all contracts relating to the acquisition, construction, installation and equipping of a project shall be solicited, negotiated, awarded and executed by the prospective operator and its agents subject only to such approvals by the authority as the authority may require in such agreement. Such agreement may provide that the authority may, out of the proceeds of bonds, make advances to or reimburse the operator for all or a portion of its costs incurred in connection with such contracts."

Sec. 7. G.S. 159C-16 is hereby rewritten to read as follows:

"§ 159C-16. Conflict of interest. — If any officer, commissioner or employee of the authority, or any member of the governing body of the county for which the authority is created, shall be interested either directly or indirectly in any contract with the authority, such interest shall be disclosed to the authority and the county board of commissioners and shall be set forth in the minutes of the authority and the county board of commissioners, and the officer, commissioner, employee or member having such interest therein shall not participate on behalf of the authority in the authorization of any such contract or on behalf of the governing body of the county in the approval of the bonds to be issued by the authority to finance the project, respectively; provided, however, that this section shall not apply to the ownership of less than one per centum (1%) of the stock of any operator or obligor. Failure to take any or all actions necessary to carry out the purposes of this section shall not affect the validity of bonds issued pursuant to the provisions of this Chapter."

Sec. 8. G.S. 159C-22 is hereby amended as follows:

(1) The third sentence thereof is hereby deleted.

(2) A new paragraph is hereby added thereto as follows:

"The provisions of Article III, Subchapter III of Chapter 159 of the General Statutes of North Carolina entitled: 'The Local Government Budget and Fiscal Control Act' shall have no application to authorities created pursuant to this Chapter."

Sec. 9. The creation, formation and organization of all authorities heretofore purported to have been created, formed and organized are hereby ratified, confirmed and validated.

Sec. 10. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 24th day of June, 1977.