

GENERAL ASSEMBLY OF NORTH CAROLINA
1983 SESSION

CHAPTER 652
SENATE BILL 308

AN ACT TO ESTABLISH A NORTH CAROLINA ENERGY DEVELOPMENT
AUTHORITY.

The General Assembly of North Carolina enacts:

Section 1. This act may be referred to as the North Carolina Resource Recovery and Energy Facility Finance Act.

Sec. 2. The General Statutes are hereby amended by adding a new Chapter, G.S. 159F, to read as follows:

"North Carolina Energy Development Authority.

"§ 159F-1. **Public purpose.** – The purposes of this Chapter are to encourage the good management of solid waste and the conservation of natural resources through the promotion or development of facilities to collect, separate and reclaim solid waste for energy production purposes where economically feasible, and to reduce the energy costs of public buildings and government operations by the development of resource recovery facilities and other energy-related facilities.

"§ 159F-2. **Legislative findings.** – (a) The people of the State of North Carolina have the right to a clean and wholesome environment.

(b) The continuing technological progress and improvement in the methods and processes of manufacture, packaging and marketing of consumer products have resulted in an ever mounting increase of and change in the characteristics of the mass of material being discharged. The economic and population growth of the State and the improvements in the standards of living enjoyed by its population have required increased industrial production together with related commercial operations to meet these needs, resulting in a rising tide of discharged materials.

(c) Maximum resource recovery from solid waste is necessary to protect the public health, welfare, and quality of the natural environment. The ability to economically recover energy resources from solid waste and from other available resources has become a logical and necessary function to be assumed by the North Carolina Energy Development Authority.

(d) The energy costs associated with the operation and maintenance of State and local government buildings are significant. Reduction of those energy costs through development of energy resources such as resource recovery facilities and through conservation is an overriding public purpose.

Therefore, to assist the development of resource recovery facilities and to reduce the energy costs of the operation and maintenance of public buildings, it is desirable to create an Energy Development Authority, with the powers enumerated herein. It is

hereby determined and declared that it is necessary for the health and welfare of the inhabitants of the State that the energy generation facilities created by such Authority and serving a specified geographic area shall be used by public or private owners or occupants of all lands, buildings, and premises within said area, and a municipality may, by ordinance, require that all solid waste generated within said area and placed in the waste stream for disposal, shall be delivered to the permitted energy generation facility or facilities created by the Energy Development Authority. Actions taken pursuant to this Chapter shall be deemed to be acts of the sovereign power of the State of North Carolina, and to the extent reasonably necessary to achieve the purposes of this Chapter, a municipality may displace competition with public service for solid waste management and disposal. It is further determined and declared that no special purpose service district under the jurisdiction of the municipality or person, firm, corporation, association or entity within said geographic area shall engage in any activities which would be competitive with this purpose or with ordinances, rules or regulations adopted pursuant to the authority granted herein.

"§ 159F-3. Definitions. – The following words and terms, unless the context clearly indicates a different meaning, will have the following respective meanings:

(a) 'Authority' means the North Carolina Energy Development Authority created and established pursuant to this Chapter, or any successor thereto;

(b) 'Bonds' means the bonds, provisional bonds, refunding bonds, obligations, notes, interim receipts or provisional bonds, certificates or other evidence of indebtedness issued under the provisions of this Chapter;

(c) 'Costs' means the cost at fair market value, as determined by the Authority, of construction, real and personal property, property rights, utility extensions, disposal facilities, access roads, easements, franchises, financing charges, interest, labor, materials, machinery and equipment, engineering and legal services, plans, specifications, surveys, cost estimates, studies, transportation, interest during construction and for one year thereafter, debt service reserves, operating reserves, insurance and other expenses necessary or incidental to the design, development, construction, financing, management, operation and maintenance of an authorized project, and such other costs or purchasing expenses incurred by the Authority, as may be necessary, convenient or incidental to the purposes of the Authority, including administrative and operating costs, research and development costs, operating capital, fees, charges, loans, and the expenses associated with purchasing real and personal property;

(d) 'Energy conservation measures' means all systems, facilities, property, services and personnel designed to reduce energy consumption in public buildings, either on an overall basis or at time of system peak, including but not limited to energy retrofit systems, load management systems, thermal energy storage units and other energy-saving devices;

(e) 'Energy generation facility' means:

- (1) A resource recovery facility, defined as a facility which recycles or reclaims solid waste to produce materials or energy;

- (2) A facility which produces electric energy or useful thermal energy, and which depends for its primary source of fuel upon biomass, waste, peat, solar or wind energy or other renewable resources; or
- (3) A co-generation facility, defined as a facility which produces electric energy and another form of useful energy, regardless of the type of fuel used.

An energy generation facility, as defined herein, shall not be considered a 'public utility' under the laws of this State, nor shall the structures, systems and equipment associated with such facility be considered 'public buildings' within the laws of this State;

(f) 'Energy services' means the furnishing of energy, including steam, from an energy generating facility or the installation, operation and maintenance of energy conservation measures;

(g) 'Federal agency' means any agency of the United States government;

(h) 'Joint venture' means a project in which ownership interests are held by one or more State agencies, units of local government, and/or federal agencies, and the Authority;

(i) 'Municipality' means a county, city, town or incorporated village;

(j) 'Person' means any individual, firm, partnership, joint venture, association, corporation, company, commission, institution, cooperative enterprise or other duly established legal entity organized or existing under the laws of this or any other state;

(k) 'Project' means an energy generating facility or energy conservation measure authorized under this Chapter;

(l) 'Resource recovery' means the processing of solid waste excluding those under control of the Atomic Energy Commission, which still have useful physical or chemical properties after serving a specific purpose in manufacture, agriculture, power production or other processes;

(m) 'Revenues' means monies or income received by the Authority in whatever form, including but not limited to fees, charges, lease payments, income on investments, proceeds of the sale of recycled products, payments due and owing on account of any instrument, contract or agreement between the Authority and any person, gifts, grants, bestowals or any other monies or payments to which the Authority is entitled under the provisions of this Chapter, any other law, or of any agreement, contract or indenture of the Authority;

(n) 'Solid waste' means garbage, rubbish, refuse, and other unwanted or discarded solid, semisolid, or liquid materials resulting from domestic, industrial, commercial, agricultural, and governmental operations, including putrescible and nonputrescible discarded material; sludge from sewage treatment plants, water supply treatment plants, or air pollution control facilities; septic tank and cesspool pumpings; construction and demolition wastes; dead animals, including offal; wood wastes and inert materials; food waste; ashes; street cleanings; and combustible or noncombustible waste such as paper, rags, cardboard, wood, tin cans, weeds, glass, china, but not including municipal sewage, industrial wastewater effluents, dissolved materials in irrigation return flows, or other common water pollutants, or material disposed of or separated by its owner for

recycling; provided, however, that no project shall handle a waste stream which possesses the characteristics of hazardous waste other than ignitability, as those characteristics are defined in applicable State and federal regulations;

(o) 'Solid waste collection service' means any public or private activity for the collection and transportation of solid waste;

(p) 'Special purpose service district' means a sanitary sewer district, metropolitan water and/or sewer district, county water and/or sewer district, hospital authority, hospital district, airport authority, school district, and any other unit of local government other than a county, city, town or incorporated village;

(q) 'State agency' means any and all units of the government of North Carolina, including public universities and community colleges;

(r) 'Unit of local government' means both municipalities and special purpose service districts as defined herein.

"§ 159F-4. Energy Development Authority. – (a) There is created and housed administratively within the North Carolina Department of Administration the North Carolina Energy Development Authority which shall be constituted an instrumentality of the State for the performance of essential governmental functions.

The Authority shall continue until its existence shall be terminated by law. Upon the termination of the existence of the Authority, all of its rights and properties shall pass to and be vested in the State.

(b) The Authority shall consist of five members, appointed by the Governor for two-year terms. One member shall be experienced in energy matters, one member shall be experienced in solid waste matters, and a third member shall be experienced in the financing of public facilities. The members shall be compensated for per diem and allowances as provided in G.S. 138-5 and G.S. 138-6.

(c) The Department of Administration shall provide such technical and clerical services and personnel as the Authority may require in the performance of its functions and shall provide liaison services with other agencies of State government to disseminate information and comment on Authority matters. The Authority shall reimburse the Department for such services from its revenues or from any other funding source.

(d) To the extent necessary, the Authority shall require any participating State agency, unit of local government or federal agency to advance funds to pay for the expenditures required by subsections (b) and (c) and other preliminary costs. Such funds shall be reimbursed to the advancing party from the proceeds of the sale of revenue bonds for the proposed project.

"§ 159F-5. Powers of the Authority. – (a) The Authority or any joint venture created pursuant to this Chapter shall have all of the powers necessary and convenient to carry out and effectuate the purposes and provisions of this Chapter, including, but without limiting the generality of the foregoing, the following powers:

- (1) The power to construct, reconstruct, install, design, improve, expand, operate, maintain, lease, transfer, assign, or own in whole or in part, energy conservation measures or energy generation facilities for the benefit of any participating State agencies, units of local government

and federal agencies and to enter into joint ventures with State agencies, units of local government and federal agencies to effectuate the purposes of this Chapter;

- (2) The power to make plans, surveys, studies and investigations necessary or desirable, with due consideration for local or regional plans, if any, to carry out Authority functions with respect to the acquisition, use and development of real property and the design and construction of systems and facilities;
- (3) The power to acquire by deed, purchase, lease, contract, gift, devise, condemnation (as to real property only within the geographic boundary of any participating unit of local government) or otherwise, any real or personal property, structures, right-of-way, franchises, easements, and other interests in lands located within the geographic boundary of any participating unit of local government or owned by any participating State or federal agency and which is necessary and convenient for the construction or operation of a project, upon such terms and conditions as it deems advisable, and to lease, sell, or dispose of the same in such manner as may be necessary or desirable to carry out the objects and purposes of this Chapter; provided, however, that any lease or conveyance of real property owned by the Authority or by other State agencies to a private person must reflect the fair market value of the property leased or conveyed;
- (4) The power to select, approve and contract for services in the performance of architectural and engineering design and the power to select, approve and contract for the supervision of design and construction, project construction, system management and other professional or technical services as may be required for either prequalification of a contractor or the resubmission by any person or association of persons of a proposal in response to an official request for proposal or similar written communication of the Authority, whenever such services are, in the discretion of the Authority, deemed necessary, desirable or convenient in carrying out the purposes of the Authority; provided, however, that the Authority's obligations to pay under the contract shall not be secured by the full faith and credit of the State of North Carolina, but shall be secured by the assets of the Authority;
- (5) The power to contract with any person, State agency, unit of local government or federal agency for the performance of all services, including solid waste collection or management services and energy services, necessary to effectuate the purposes of this Chapter; provided, however, that the obligation of the Authority, such State agency or unit of local government to pay under any contract shall not be secured by the full faith and credit of the State of North Carolina, such State agency or unit of local government;

- (6) The power to contract with any person to sell energy or other by-products of energy generation facilities and to collect revenue therefrom;
- (7) In connection with the financing of an energy generation facility, the power to compel any participating State agency, special purpose service district, or federal agency to adopt and enforce a solid waste management plan, and the power to compel any participating municipality to adopt and enforce an ordinance, which plan or ordinance shall provide that any or all persons subject to the jurisdiction of the participating party shall use the services and facilities of the Authority for solid waste management; provided, however, that if a private solid waste landfill shall be substantially affected by such plan or ordinance then the unit of local government compelled to adopt the plan or ordinance shall be required to give the operator of the affected landfill at least 2 years' written notice prior to the effective date of the proposed plan or ordinance. The Authority may permit separation and exclusion of specific kinds of waste if it determines that such waste is not necessary for the operation of the facility;
- (8) The power and obligation to review and actively supervise the enforcement of such solid waste plans or ordinances, when adopted in conjunction with a project;
- (9) The power to adopt fee schedules, user charges, and other charges for the use and operation of facilities under its jurisdiction and control and to approve and supervise the enforcement of such schedules or charges when adopted by a unit of local government in connection with a project;
- (10) The power to pledge revenues from such facilities to the benefit of bondholders or for other purposes necessary to secure financing;
- (11) The power to procure and keep in force adequate insurance or otherwise provide for the adequate protection of its property as well as to indemnify and save harmless it and its officers, agents, or employees against loss or liability with respect to any risk to which it or they may be exposed in carrying out any function of the Authority;
- (12) The power to do anything else necessary for the construction, operation and maintenance of such facilities and not otherwise prohibited by law;
- (13) The power to receive, administer, and comply with the conditions or requirements respecting any appropriation or gift, grant or donation of any money, including monies from State or federal sources;
- (14) The power to sue and be sued in its own name, plead and be impleaded;
- (15) The power to adopt an official seal and alter the same at pleasure; and

- (16) The power to adopt bylaws for the regulation of its affairs and the conduct of its business and to prescribe rules, regulations and policies in connection with the performance of its functions and duties.

(b) Neither the Authority nor any joint venture established under this Chapter shall be subject to the following provisions of the General Statutes of North Carolina: Article 7, Chapter 129 (North Carolina Capital Building Authority); Chapter 146 (State Lands); Article 3, Chapter 143 (Purchases and Contracts); G.S. 143-128, as to the construction and operation of those facilities which produce steam or electrical energy and which depend upon waste, biomass or renewable resources for their primary source of fuel and for which single contractual responsibility is required for the construction and operation of the facility for a specified period of time; G.S. 143-341(3).

(c) Notwithstanding the powers granted in subsection (a), the Authority shall not have the power to require any State agency, municipality, or special purpose service district to contract or enter into a joint venture with the Authority.

"§ 159F-6. Compliance with laws applicable to environmental pollution abatement and control. – This Chapter shall not be construed as amending, repealing or in any manner abridging or interfering with those sections of the General Statutes relating to the abatement or control of environmental pollutants and wastes and toxic or hazardous wastes and substances, nor shall the provisions of this Chapter be construed as being applicable to or in any way affecting the authority of State agencies and commissions to control the discharge of environmental pollutants and wastes and toxic or hazardous wastes substances into the air, soil, or waters of the State. The Authority shall be considered a State agency for purposes of the North Carolina Environmental Policy Act.

"§ 159F-7. Powers of State agencies and units of local government necessary to fulfill obligations under a joint venture. – (a) All State agencies and units of local government shall have the power to enter into joint ventures or contracts with the Authority to effectuate the purposes of this Chapter.

(b) When a State agency or unit of local government enters into a joint venture or contract with the Authority, that agency or unit of local government shall have the power to:

- (1) Impose, charge and collect fees for the use of the services of a project and appropriate and contribute funds to the joint venture or project, when directed to do so by the Authority. Such appropriations may be funded from any available monies, including the proceeds of bonds of the units of local government issued pursuant to the Local Government Bond Act, G.S. 159-44 et seq.
- (2) Agree to deliver all solid waste collected within the jurisdiction of such agency or unit of local government and to pay a charge for the disposal thereof which may be fixed or based upon a formula. Such agreement may be for such period of years as may be deemed necessary by such agency or unit of local government, but shall not exceed 40 years. Such agreement may be renewed under such terms as may be set forth therein for such additional terms as may be deemed necessary and advisable by such agency or unit of local government.

Payment of service charges pursuant to the terms of such agreements may be made by appropriations or from user charges. The enforcement of such agreement shall be subject to the direction and active supervision of the Authority.

- (3) Give, sell, lease, contract or assign any real or personal property, structures, rights, rights-of-way, franchises, easements, or other interests in land to the Authority or to the joint venture.

(c) When a municipality enters into a joint venture or contract with the Authority, that municipality shall also have the power to adopt, at the direction and supervision of the Authority, solid waste ordinances necessary to effectuate the purpose of this Chapter and further described in G.S. 159F-2 and G.S. 159F-5. All solid waste management practices and ordinances adopted pursuant to this Chapter shall also conform to the solid waste management program established under G.S. 130-166.18.

"§ 159F-8. Issuance of revenue bonds. – (a) The Authority is hereby authorized to issue revenue bonds in such principal amount as may be necessary to provide sufficient monies for the acquisition, construction, reconstruction, extension, betterment, improvement, or payment of the costs of one or more projects described herein, including engineering, inspection, legal and financial fees and costs, working capital, interest on the bonds or notes issued in anticipation thereof during construction and all other project costs defined in G.S. 159F-3(c) and, if deemed advisable by the Authority, for a period not exceeding two years after the estimated date of completion of construction, establishment of debt service reserves, and all other expenditures of the Authority incidental and necessary or convenient thereto.

Subject to agreements with the holders of its revenue bonds, the Authority may issue further revenue bonds and refund outstanding revenue bonds whether or not they have matured. Revenue bonds may be issued partly for the purpose of refunding outstanding revenue bonds and partly for any other purpose under this Chapter.

(b) Obligations issued under the provisions of this Chapter shall not be deemed to constitute a debt or liability or obligation of the State or of any municipality or political subdivision thereof or a pledge of the faith and credit of the State or of any such political subdivision, but shall be payable solely from the revenues of the Authority. Each obligation issued under this Chapter shall contain on the face thereof a statement that the Authority shall not be obligated to pay the same nor interest thereon except from the revenues pledged therefor, and that neither the faith and credit nor the taxing power of the State or of any political subdivision thereof is pledged to the payment of the principal of or the interest on such obligation.

(c) The bonds or coupons issued by the Authority which are duly certified by the officials of the Authority in the exercise of their functions on the date of their signing, shall be held valid, binding and sufficient for all purposes even though prior to the delivery and payment of such bonds or coupons, any or all of the officials of the Authority whose signatures or legal facsimile thereof that appear on the documents have ceased in their official functions in the Authority. The validity of the authorization and bond issue shall not depend or be affected by any procedure related to the construction, acquisition, expansion, or improvement of the project for which the bonds have been

issued, or by any contract entered in connection with such project. Any resolution authorizing the bond issue may provide that such bonds shall contain a clause to the effect that they are being issued pursuant to the provisions of this Chapter, and any bond containing the referred clause, authorized by a resolution of the Authority, shall be deemed conclusively valid and issued pursuant to the provisions of this Chapter.

(d) Whether or not the bonds are of such form and character as to be negotiable instruments under the terms of the North Carolina Uniform Commercial Code, the notes and bonds are hereby made negotiable instruments within the meaning of and for all the purposes of the North Carolina Uniform Commercial Code, and shall be deemed to be so for all purposes, at all time in the absence of any express statement that it is not assignable.

(e) Neither the directors of the Authority nor any person executing bonds and coupons shall be liable personally on the bonds or other obligations or be subject to any personal liability or accountability by reason of the issuance thereof.

(f) The Authority, subject to such agreements with bondholders as may then exist, shall have power out of any funds available therefor to purchase bonds of the Authority or bonds which may be assumed by the Authority, which bonds shall thereupon be cancelled, at a price not exceeding:

- (1) if the bonds are then redeemable, the redemption price then applicable plus accrued interest to the next interest payment thereon; or
- (2) if the bonds are not then redeemable, the redemption price applicable on the first date after such purchase upon which the bonds become subject to redemption plus accrued interest to the date of purchase, whereupon which notes or bonds shall be cancelled.

(g) The Authority may not issue revenue bonds under this Chapter unless the issue is approved by the Local Government Commission. The Authority, or its duly authorized agent, shall file an application for Local Government Commission approval of the issue with the secretary of the Local Government Commission. The application shall state such bonds and the financial condition of the Authority and its enterprises as the secretary may require. The Local Government Commission may prescribe the form of the application.

Before he accepts the application, the secretary may require the Authority or its representatives to attend a preliminary conference at which time the secretary and his deputies may informally discuss the proposed issue and the timing of the steps to be taken in issuing the bonds.

After an application in proper form and order has been filed, and after a preliminary conference if one is required, the secretary shall notify the Authority in writing that the application has been filed and accepted for submission to the Local Government Commission. The secretary's statement shall be conclusive evidence that the Authority has complied with this section.

(h) In determining whether a proposed revenue bond issue shall be approved, the Local Government Commission may consider:

- (1) Whether the project to be financed from the proceeds of the revenue bond issue is necessary or expedient;

- (2) Whether the proposed project is feasible;
- (3) The Authority's debt management procedures and policies;
- (4) Whether the Authority is in default in any of its debt service obligations;
- (5) Whether the probable net revenues of the project to be financed will be sufficient to service the proposed revenue bonds; and
- (6) The ability to market the proposed revenue bonds at reasonable rates of interest.

The Local Government Commission may inquire into and give consideration to any other matters that it may believe to have a bearing on whether the issue should be approved.

The Local Government Commission shall approve the application if, upon the information and evidence it receives, it finds and determines:

- (1) That the proposed revenue bond issue is necessary or expedient;
- (2) That the amount proposed is adequate and not excessive for the proposed purpose of the issue;
- (3) That the proposed project is feasible;
- (4) That the Authority's debt management procedures and policies are good, or that reasonable assurances have been given that its debt will henceforth be managed in strict compliance with law; and
- (5) That the proposed revenue bonds can be marketed at reasonable interest cost.

(i) After considering an application the Local Government Commission shall enter its order either approving or denying the application. An order approving an issue shall not be regarded as an approval of the legality of the bonds in any respect.

If the Commission enters an order denying the application, the proceedings under this Chapter shall be at an end.

(j) At any time after the Local Government Commission approves an application for the issuance of revenue bonds, the Authority may adopt a revenue bond order pursuant to this Chapter.

(k) A revenue bond order or a trust agreement securing revenue bonds may contain covenants as to:

- (1) The pledge of all or any part of revenues received or to be received from the undertaking to be financed by the bonds, or the enterprise of which the undertaking is to become a part;
- (2) Rates, fees, rentals, tolls or other charges to be established, maintained, and collected, and the use and disposal of revenues, gifts, grants, and funds received or to be received;
- (3) The setting aside of debt service reserves and the regulation and disposition thereof;
- (4) The custody, collection, securing, investment, and payment of any moneys held for the payment of revenue bonds;
- (5) Limitations or restrictions on the purposes to which the proceeds of sale of revenue bonds then or thereafter to be issued may be applied;

- (6) Limitations or restrictions on the issuance of additional revenue bonds or notes, the terms upon which additional revenue bonds or notes may be issued and secured, or the refunding of outstanding or other revenue bonds;
 - (7) The procedures, if any, by which the terms of any contract with bondholders may be amended or abrogated, the percentage of revenue bonds the bondholders of which must consent thereto, and the manner in which such consent may be given;
 - (8) Events of default and the rights and liabilities arising thereupon, the terms and conditions upon which revenue bonds issued under this Chapter shall become or may be declared due before maturity, and the terms and conditions upon which such declaration and its consequences may be waived;
 - (9) The preparation and maintenance of a budget with respect to the expenses of the Authority for the operation and maintenance of revenue bond projects;
 - (10) The retention or employment of consulting engineers, independent auditors, and other technical consultants in connection with revenue bond projects;
 - (11) Limitations on or the prohibition of free service by revenue bond projects to any person, firm or corporation, public or private;
 - (12) The acquisition and disposal of property for revenue bond projects;
 - (13) Provisions for insurance and for accounting reports and the inspection and audit thereof; or
 - (14) The continuing operation and maintenance of the revenue bond project or the enterprise of which it is to become a part.
- (l) In fixing the details of revenue bonds, the Authority shall be subject to the following restrictions and directions:
- (1) The maturity dates may not exceed the maximum maturity periods prescribed by the Commission for general obligation bonds pursuant to G.S. 159-122.
 - (2) No bonds may be made payable on demand, but any bond may be made subject to redemption prior to maturity, with or without premium, on such notice and at such time or times and with such redemption provisions as may be stated. When any such bond shall have been validly called for redemption and provision shall have been made for the payment of the principal thereof, any redemption premium, and the interest thereon accrued to the date of redemption, interest thereon shall cease.
 - (3) The bonds may bear interest at such rate or rates, payable semiannually or otherwise, may be in such denominations, and may be payable in such kind of money and in such place or places without or within the State of North Carolina, as the issuing Authority may determine.

(m) All revenue bonds issued under this Chapter shall be equally and ratably secured by a pledge, charge, and lien upon revenues provided for in the bond order, without priority by reason of number, or of dates of bonds, execution, or delivery, in accordance with the provisions of this Chapter and of the bond order; except that that Authority may provide in a revenue bond order that revenue bonds issued pursuant thereto shall to the extent and in the manner prescribed in the order or agreement be subordinated and junior in standing, with respect to the payment of principal and interest and the security thereof, to any other revenue bonds.

Any pledge made by the Authority pursuant to this Chapter shall be valid and binding from the date of final passage of the bond order upon the issuance of any bonds or bond anticipation notes thereunder. The revenues, securities and other monies so pledged and then held or thereafter received by the Authority or any fiduciary shall immediately be subject to the lien of the pledge without any physical delivery thereof or further act, and the lien of the pledge shall be valid and binding as against all parties having claims of any kind in tort, contract, or otherwise against the Authority without regard to whether such parties have notice thereof.

(n) Whether or not the revenue bonds and interest coupons appertaining thereto are of such form and character as to be investment securities under Article 8 of the Uniform Commercial Code as enacted in this State, all revenue bonds and interest coupons appertaining thereto issued under this Article are hereby made investment securities within the meaning of and for all the purposes of Article 8 of the Uniform Commercial Code as enacted in this State, subject only to the provisions of the bonds pertaining to registration.

(o) Notwithstanding any other provisions of this Chapter, the State Treasurer shall have the exclusive power to issue bonds and notes authorized under the Chapter upon request of the Authority and with the approval of the Local Government Commission.

The State Treasurer in his sole discretion shall determine the interest rates, maturities, and other terms and conditions of the bonds and notes authorized by this Chapter.

The Authority shall cooperate with the State Treasurer in structuring any bond issue in general, and also in soliciting proposals from financial consultants, underwriters, and bond attorneys. The State Treasurer shall have the exclusive power to employ and designate the financial consultants, underwriters, and bond attorneys to be associated with the bond issue.

Nothing in this Chapter is intended to abrogate or diminish the inherent power of the State Treasurer to negotiate the terms and conditions of the bonds and notes.

"§ 159F-9. Energy Fund.—(a) Revenues received by the Authority, in excess of those required to be paid to other participants in a joint venture or paid to or held for the benefit of the holders of bonds pursuant to the provisions of any revenue bond order or trust agreement and to meet other obligations of the Authority, shall be maintained in an Energy Fund.

(b) The Energy Fund shall be deposited in an escrow account to be maintained within the control of the Office of the State Treasurer.

(c) Upon approval of the Local Government Commission and after consultation with the Advisory Budget Commission, the Authority may apply the proceeds held in the Fund to energy-related projects, including research and development activities, for the benefit of State agencies.

(d) After consultation with the Advisory Budget Commission and with the approval of the Local Government Commission, the Authority may pledge the assets of the Energy Fund as security for any bond issue approved under G.S. 159F-8."

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 30th day of June, 1983.