

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1989

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HOUSE BILL 960  
Committee Substitute Favorable 5/4/89  
Committee Substitute #2 Favorable 6/6/89  
Finance Senate Committee Substitute Adopted 7/6/89  
Local Government Senate Committee Substitute #2 Adopted 7/14/89

Short Title: Local Gov't Contracts.

(Public)

Sponsors:

Referred to:

March 30, 1989

A BILL TO BE ENTITLED

AN ACT TO AMEND THE LAW CONCERNING PURCHASE MONEY SECURITY INTERESTS FOR CITIES, COUNTIES, AND WATER AND SEWER AUTHORITIES.

The General Assembly of North Carolina enacts:

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

"§ 160A-20. ~~Purchase money security~~ Security interests.

(a) Cities, counties, and water and sewer authorities created under Article 1 of Chapter 162A of the General Statutes may purchase or finance the purchase of real or personal property by installment contracts which that create in the property purchased a security interest to secure payment of the purchase money-price to the seller or to an individual or entity advancing moneys or supplying financing for the purchase transaction.

(b) Cities, counties, and water and sewer authorities created under Article 1 of Chapter 162A of the General Statutes 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.

1       (c) Cities, counties, and water and sewer authorities created under Article 1 of  
2 Chapter 162A of the General Statutes may use escrow accounts in connection with the  
3 advance funding of transactions authorized by this section, whereby the proceeds of  
4 such advance funding are invested pending disbursement.

5       (d) No contract entered into under this section may contain a nonsubstitution  
6 clause that restricts the right of a city, a county, or a water and sewer authority created  
7 under Article 1 of Chapter 162A of the General Statutes to:

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

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

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

14           (1) Meets the standards set out in G.S. 159-148(a)(1), 159-148(a)(2), and  
15 159-148(a)(3), or involves the construction or repair of fixtures or  
16 improvements on real property; and

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

19       (f) No deficiency judgment may be rendered against any city, county, or water  
20 and sewer authority created under Article 1 of Chapter 162A of the General Statutes in  
21 any action for breach of a contractual obligation authorized by this section, and the  
22 taxing power of a city or county is not and may not be pledged directly or indirectly to  
23 secure any moneys due to the seller, under a contract authorized by this section. Any  
24 contract made or entered into by a city or county before June 1, 1979, which would have been  
25 valid hereunder is hereby validated, ratified and confirmed.

26       (g) Before entering into a contract under this section involving real property, a  
27 city, a county, or a water and sewer authority created under Article 1 of Chapter 162A  
28 of the General Statutes shall hold a public hearing on the contract. A notice of the  
29 public hearing shall be published once at least 10 days before the date fixed for the  
30 hearing."

31       Sec. 2. (a) Any contract made or entered into, prior to the date of ratification  
32 of this act, by a city, a county, or a water and sewer authority created under Article 1 of  
33 Chapter 162A of the General Statutes which would have been valid under G.S. 160A-  
34 20, subsections (a), (b), (c), and (f), as rewritten by this act, is hereby validated, ratified,  
35 and confirmed. Furthermore, such a contract may not be held invalid because it  
36 contains a nonsubstitution clause, or because no public hearing was advertised and held  
37 on the contract, or both.

38       (b) Any contract made or entered into, prior to the date of ratification of this act,  
39 by a city, a county, or a water and sewer authority created under Article 1 of Chapter  
40 162A of the General Statutes which would have been valid under subsection (a) of this  
41 Section 2 or under G.S. 160A-20 as it existed prior to the ratification of this act or as  
42 rewritten by this act, except that the Local Government Commission did not approve the  
43 contract, is hereby validated, ratified, and confirmed.

1           Sec. 3. Nothing in this act shall be interpreted to limit or restrict the authority  
2 of cities, counties, or water and sewer authorities created under Article 1 of Chapter  
3 162A of the General Statutes to purchase, improve, or finance the purchase or  
4 improvement of real or personal property pursuant to any other applicable law, whether  
5 general, special, or local.

6           Sec. 4. This act is effective upon ratification.