

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1991

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SENATE BILL 1239

Short Title: Mental Health Bond Bill.

(Public)

Sponsors: Senator Daniel.

Referred to: Finance.

June 8, 1992

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE THE ISSUANCE OF GENERAL OBLIGATION BONDS OF THE STATE, SUBJECT TO A VOTE OF THE QUALIFIED VOTERS OF THE STATE, TO PROVIDE FUNDS FOR FACILITIES FOR MENTAL HEALTH, DEVELOPMENTAL DISABILITIES, AND SUBSTANCE ABUSE SERVICES.

The General Assembly of North Carolina enacts:

Section 1. Short title. This act shall be known and may be cited as the "Mental Health Facilities Bond Act."

Sec. 2. Findings and determinations. It is the intent and purpose of the General Assembly by this act to provide for the issuance of general obligation bonds of the State in order to facilitate the payment of the capital costs required in providing facilities offering mental health, developmental disabilities, and substance abuse services by Area Mental Health, Developmental Disabilities, and Substance Abuse Authorities.

Sec. 3. Definitions. As used in this act, unless the context otherwise requires:

- (1) " Bonds" means bonds issued under this act.
- (2) " Cost" means, without intending thereby to limit or restrict any proper definition of such word in financing the cost of facilities or purposes authorized by this act:
 - a. The cost of constructing, reconstructing, enlarging, acquiring, and improving facilities, and acquiring equipment and land therefor,

- 1 b. The cost of engineering, architectural, and other consulting
2 services as may be required,
3 c. Administrative expenses and charges,
4 d. The cost of bond insurance, investment contracts, credit
5 enhancement and liquidity facilities, interest-rate swap
6 agreements, financial and legal consultants, and related costs of
7 bond and note issuance, to the extent and as determined by the
8 State Treasurer, and
9 e. Any other costs and expenses necessary or incidental to the
10 purposes of this act.

11 Allocations in this act of proceeds of bonds to the costs of a project or
12 undertaking in each case may include allocations to pay the costs set
13 forth in items c., d., and e. in connection with the issuance of bonds for
14 such project or undertaking.

- 15 (3) " Credit facility" means an agreement entered into by the State
16 Treasurer on behalf of the State with a bank, savings and loan
17 association or other banking institution, an insurance company,
18 reinsurance company, surety company or other insurance institution, a
19 corporation, investment banking firm or other investment institution,
20 or any financial institution or other similar provider of a credit facility,
21 which provider may be located within or without the United States of
22 America, such agreement providing for prompt payment of all or any
23 part of the principal or purchase price (whether at maturity,
24 presentment, or tender for purchase, redemption, or acceleration),
25 redemption premium, if any, and interest on any bonds or notes
26 payable on demand or tender by the owner, in consideration of the
27 State agreeing to repay the provider of the credit facility in accordance
28 with the terms and provisions of such agreement.

- 29 (4) " Notes" means notes issued under this act.

- 30 (5) " Par formula" means any provision or formula adopted by the State to
31 provide for the adjustment, from time to time, of the interest rate or
32 rates borne by any bonds or notes, including:

- 33 a. A provision providing for such adjustment so that the purchase
34 price of such bonds or notes in the open market would be as
35 close to par as possible,
36 b. A provision providing for such adjustment based upon a
37 percentage or percentages of a prime rate or base rate, which
38 percentage or percentages may vary or be applied for different
39 periods of time, or
40 c. Such other provision as the State Treasurer may determine to be
41 consistent with this act and will not materially and adversely
42 affect the financial position of the State and the marketing of
43 bonds or notes at a reasonable interest cost to the State.

1 Sec. 4. Authorization of bonds and notes. Subject to a favorable vote of a
2 majority of the qualified voters of the State who vote on the question of issuing area
3 mental health facilities bonds in the election called and held as hereinafter provided, the
4 State Treasurer is hereby authorized, by and with the consent of the Council of State, to
5 issue and sell, at one time or from time to time, general obligation bonds of the State to
6 be designated "State of North Carolina Area Mental Health Facilities Bonds," with such
7 additional designations as may be determined to indicate the issuance of bonds from
8 time to time, or notes of the State as herein provided, in an aggregate principal amount
9 for the purposes authorized in this act.

10 Sec. 5. Use and allocation of bond and note proceeds. The proceeds of area
11 mental health facilities bonds and notes shall be used to provide primary centers,
12 satellite centers, or group homes to be used by Area Mental Health, Developmental
13 Disabilities, and Substance Abuse Authorities to provide mental health, developmental
14 disabilities, and substance abuse services pursuant to G.S. 122C-115.

15 Sec. 6. Allocation of proceeds of bonds and notes. The proceeds of area
16 mental health facilities bonds and notes, including premium thereon, if any, except the
17 proceeds of bonds the issuance of which has been anticipated by bond anticipation notes
18 or the proceeds of refunding bonds or notes, shall be placed by the State Treasurer in a
19 special fund to be designated "Area Mental Health Facilities Bonds Fund." Moneys in
20 the Area Mental Health Facilities Bonds Fund shall be used for the purposes set forth in
21 this act.

22 Any additional moneys which may be received by means of a grant or grants
23 from the United States of America or any agency or department thereof or from any
24 other source to aid in financing the cost of any facilities to be provided by Area Mental
25 Health Facilities grants authorized by this act may be placed by the State Treasurer in
26 the Area Mental Health Facilities Bonds Fund or in a separate account or fund and shall
27 be disbursed, to the extent permitted by the terms of such grant or grants, without regard
28 to any limitations imposed by this act.

29 The proceeds of Area Mental Health Facilities Bonds and notes may be used
30 with any other moneys made available by the General Assembly for the making of
31 grants, including the proceeds of any other State bond issues, whether heretofore made
32 available or which may be made available at the session of the General Assembly at
33 which this act is ratified or any subsequent sessions. The proceeds of Area Mental
34 Health Facilities Bonds and notes shall be expended and disbursed under the direction
35 and supervision of the Director of the Budget.

36 Sec. 7. Election. The question of the issuance of the North Carolina Area
37 Mental Health Facility Bonds shall be submitted to the qualified voters of the State at an
38 election to be held on Tuesday, November 3, 1992. Any other primary, election or
39 referendum validly called or scheduled by law at the time the election on the bond
40 question provided for in this section is held may be held as called or scheduled. Notice
41 of the election on the bond question shall be given by publication twice in a newspaper
42 or newspapers having general circulation in each county in the State, and the election
43 and the registration of voters therefor shall be held under and in accordance with the
44 general laws of the State. Absentee ballots shall be authorized in the election.

1 The State Board of Elections shall reimburse the counties of the State for all
2 necessary expenses incurred in holding the election which are in addition to those which
3 would have otherwise been incurred, the same to be paid out of the Contingency and
4 Emergency Fund or other funds available to the State Board of Elections.

5 Voting machines may be used in accordance with the rules and regulations
6 prescribed by the State Board of Elections. The State Board of Elections may also
7 cause to be printed and distributed, to the extent necessary, ballots for use in the
8 election. The bond question to be used in the voting machines and any ballots shall be
9 in substantially the following form:

10 "[] FOR the issuance of State of North Carolina Area Mental Health
11 Facility Bonds constituting general obligation bonds of the State
12 secured by a pledge of the faith and credit and taxing power of the
13 State for the purpose of providing funds, with any other available
14 funds, to pay the cost of land and construction of capital improvements
15 to provide facilities for mental health, developmental disabilities, and
16 substance abuse treatment services.

17 [] AGAINST the issuance of State of North Carolina Area Mental Health
18 Facility Bonds constituting general obligation bonds of the State
19 secured by a pledge of the faith and credit and taxing power of the
20 State for the purpose of providing funds, with any other available
21 funds, to pay the cost of land and construction of capital improvements
22 to provide facilities for mental health, developmental disabilities, and
23 substance abuse treatment services."

24 If a majority of those voting on the bond question in the election shall vote in
25 favor of the issuance of the bonds, such bonds may be issued as herein provided. If a
26 majority of those voting on the bond question in the election shall vote against the
27 issuance of the bonds, such bonds shall not be issued.

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

32 Sec. 8. Issuance of bonds and notes. (a) Terms and conditions. Bonds or notes
33 may bear such date or dates, may be serial or term bonds or notes, or any combination
34 thereof, may mature in such amounts and at such time or times, not exceeding 40 years
35 from their date or dates, may be payable at such place or places, either within or without
36 the United States of America, in such coin or currency of the United States of America
37 as at the time of payment is legal tender for payment of public and private debts, may
38 bear interest at such rate or rates, which may vary from time to time, and may be made
39 redeemable before maturity, at the option of the State or otherwise as may be provided
40 by the State, at such price or prices, including a price less than the face amount of the
41 bonds or notes, and under such terms and conditions, all as may be determined by the
42 State Treasurer, by and with the consent of the Council of State.

43 (b) Signatures; form and denomination; registration. Bonds or notes may be
44 issued as certificated or uncertificated obligations. If issued as certificated obligations,

1 bonds or notes shall be signed on behalf of the State by the Governor or shall bear his
2 facsimile signature, shall be signed by the State Treasurer or shall bear his facsimile
3 signature, and shall bear the Great Seal of the State or a facsimile thereof shall be
4 impressed or imprinted thereon. If bonds or notes bear the facsimile signatures of the
5 Governor and the State Treasurer, the bonds or notes shall also bear a manual signature
6 which may be that of a bond registrar, trustee, paying agent or designated assistant of
7 the State Treasurer. Should any officer whose signature or facsimile signature appears
8 on bonds or notes cease to be such officer before the delivery of the bonds or notes, the
9 signature or facsimile signature shall nevertheless have the same validity for all
10 purposes as if the officer had remained in office until delivery and bonds or notes may
11 bear the facsimile signatures of persons who at the actual time of the execution of the
12 bonds or notes shall be the proper officers to sign any bond or note although at the date
13 of the bond or note such persons may not have been such officers. The form and
14 denomination of bonds or notes, including the provisions with respect to registration of
15 the bonds or notes and any system for their registration, shall be as the State Treasurer
16 may determine in conformity with this act; provided, however, that nothing in this act
17 shall prohibit the State Treasurer from proceeding, with respect to the issuance and form
18 of the bonds or notes, under the provisions of Chapter 159E of the General Statutes, the
19 Registered Public Obligations Act, as said Chapter may be amended from time to time,
20 as well as under this act.

21 (c) Manner of sale; expenses. Subject to determination by the Council of State as
22 to the manner in which bonds or notes shall be offered for sale, whether at public or
23 private sale, whether within or without the United States of America, and whether by
24 publishing notices in certain newspapers and financial journals, mailing notices, inviting
25 bids by correspondence, negotiating contracts of purchase or otherwise, the State
26 Treasurer is authorized to sell bonds or notes at one time or from time to time at such
27 rate or rates of interest, which may vary from time to time, and at such price or prices,
28 including a price less than the face amount of the bonds or notes, as the State Treasurer
29 may determine. All expenses incurred in the preparation, sale, and issuance of bonds or
30 notes shall be paid by the State Treasurer from the proceeds of bonds or notes or other
31 available moneys.

32 (d) Notes; repayment.

33 (1) By and with the consent of the Council of State, the State Treasurer is
34 hereby authorized to borrow money and to execute and issue notes of
35 the State for the same, but only in the following circumstances and
36 under the following conditions:

- 37 a. For anticipating the sale of bonds to the issuance of which the
38 Council of State shall have given consent, if the State Treasurer
39 shall deem it advisable to postpone the issuance of the bonds;
- 40 b. For the payment of interest on or any installment of principal of
41 any bonds then outstanding, if there shall not be sufficient funds
42 in the State treasury with which to pay the interest or
43 installment of principal as they respectively become due;

- 1 c. For the renewal of any loan evidenced by notes herein
2 authorized;
3 d. For the purposes authorized in this act; and
4 e. For refunding bonds or notes as herein authorized.

5 (2) Funds derived from the sale of bonds or notes may be used in the
6 payment of any bond anticipation notes issued under this act. Funds
7 provided by the General Assembly for the payment of interest on or
8 principal of bonds shall be used in paying the interest on or principal
9 of any notes and any renewals thereof, the proceeds of which shall
10 have been used in paying interest on or principal of the bonds.

11 (e) Refunding bonds and notes. By and with the consent of the Council of
12 State, the State Treasurer is authorized to issue and sell refunding bonds and notes
13 pursuant to the provisions of the State Refunding Bond Act for the purpose of refunding
14 bonds or notes issued pursuant to this act. The refunding bonds and notes may be
15 combined with any other issues of State bonds and notes similarly secured.

16 (f) Tax exemption. Bonds and notes and their transfer (including any profit
17 made on the sale thereof) shall be exempt from all State, county and municipal taxation
18 or assessment, direct or indirect, general or special, whether imposed for the purpose of
19 general revenue or otherwise, excluding inheritance and gift taxes. The interest on
20 bonds and notes shall not be subject to taxation as to income, nor shall the bonds and
21 notes be subject to taxation when constituting a part of the surplus of any bank, trust
22 company, or other corporation.

23 (g) Investment eligibility. Bonds and notes are hereby made securities in
24 which all public officers, agencies and public bodies of the State and its political
25 subdivisions, all insurance companies, trust companies, investment companies, banks,
26 savings banks, savings and loan associations, credit unions, pension or retirement funds,
27 other financial institutions engaged in business in the State, executors, administrators,
28 trustees and other fiduciaries may properly and legally invest funds, including capital in
29 their control or belonging to them. Bonds and notes are hereby made securities which
30 may properly and legally be deposited with and received by any officer or agency of the
31 State or political subdivision of the State for any purpose for which the deposit of
32 bonds, notes or obligations of the State or any political subdivision is now or may
33 hereafter be authorized by law.

34 (h) Faith and credit. The faith and credit and taxing power of the State are
35 hereby pledged for the payment of the principal of and the interest on bonds and notes.

36 Sec. 9. Variable interest rates. In fixing the details of bonds and notes, the
37 State Treasurer may provide that any of the bonds or notes may:

- 38 (1) Be made payable from time to time on demand or tender for purchase
39 by the owner thereof provided a credit facility supports the bonds or
40 notes, unless the State Treasurer specifically determines that a credit
41 facility is not required upon a finding and determination by the State
42 Treasurer that the absence of a credit facility will not materially and
43 adversely affect the financial position of the State and the marketing of
44 the bonds or notes at a reasonable interest cost to the State;

- 1 (2) Be additionally supported by a credit facility;
2 (3) Be made subject to redemption or a mandatory tender for purchase
3 prior to maturity;
4 (4) Bear interest at a rate or rates that may vary for such period or periods
5 of time, all as may be provided in the proceedings providing for the
6 issuance of the bonds or notes, including, without limitation, such
7 variations as may be permitted pursuant to a par formula; and
8 (5) Be made the subject of a remarketing agreement whereby an attempt is
9 made to remarket bonds or notes to new purchasers prior to their
10 presentment for payment to the provider of the credit facility or to the
11 State.

12 If the aggregate principal amount repayable by the State under a credit facility
13 is in excess of the aggregate principal amount of bonds or notes secured by the credit
14 facility, whether as a result of the inclusion in the credit facility of a provision for the
15 payment of interest for a limited period of time or the payment of a redemption
16 premium or for any other reason, then the amount of authorized but unissued bonds or
17 notes during the term of such credit facility shall not be less than the amount of such
18 excess, unless the payment of such excess is otherwise provided for by agreement of the
19 State executed by the State Treasurer.

20 Sec. 10. Interpretation of act. (a) Additional method. The foregoing sections of
21 this act shall be deemed to provide an additional and alternative method for the doing of
22 the things authorized thereby and shall be regarded as supplemental and additional to
23 powers conferred by other laws, and shall not be regarded as in derogation of any
24 powers now existing.

25 (b) Statutory references. References in this act to specific sections or Chapters of
26 the General Statutes or to specific Acts are intended to be references to such sections,
27 Chapters, or Acts as they may be amended from time to time by the General Assembly.

28 (c) Liberal construction. This act, being necessary for the health and welfare of
29 the people of the State, shall be liberally construed to effect the purposes thereof.

30 (d) Inconsistent provisions. Insofar as the provisions of this act are inconsistent
31 with the provisions of any general laws, or parts thereof, the provisions of this act shall
32 be controlling.

33 (e) Severability. If any provision of this act or the application thereof to any
34 person or circumstance is held invalid, such invalidity shall not affect other provisions
35 or applications of the act which can be given effect without the invalid provision or
36 application, and to this end the provisions of this act are declared to be severable.

37 Sec. 11. Effective date. This act is effective upon ratification.