

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1991

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SENATE BILL 1240

Short Title: Public School Building Bond Act.

(Public)

Sponsors: Senators Daniel; Forrester and Seymour.

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, WITH ANY OTHER AVAILABLE FUNDS, FOR PUBLIC SCHOOL BUILDINGS FOR GRADES K THROUGH TWELVE.

The General Assembly of North Carolina enacts:

Section 1. Short title. This act shall be known and may be cited as the "Public School Buildings 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 to facilitate the providing of public school buildings.

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,
 - b. The cost of engineering, architectural, and other consulting services as may be required,
 - c. Administrative expenses and charges,

1 d. The cost of bond insurance, investment contracts, credit
2 enhancement and liquidity facilities, interest-rate swap
3 agreements, financial and legal consultants, and related *costs
4 of bond and note issuance, to the extent and as determined by
5 the State Treasurer, and

6 e. Any other costs and expenses necessary or incidental to the
7 purposes of this act.

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

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

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

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

30 a. A provision providing for such adjustment so that the purchase
31 price of such bonds or notes in the open market would be as
32 close to par as possible,

33 b. A provision providing for such adjustment based upon a
34 percentage or percentages of a prime rate or base rate, which
35 percentage or percentages may vary or be applied for different
36 periods of time, or

37 c. Such other provision as the State Treasurer may determine to be
38 consistent with this act and will not materially and adversely
39 affect the financial position of the State and the marketing of
40 bonds or notes at a reasonable interest cost to the State.

41 Sec. 4. Authorization of bonds and notes. Subject to a favorable vote of a
42 majority of the qualified voters of the State who vote on the question of issuing school
43 building bonds in the election called and held as hereinafter provided, the State
44 Treasurer is hereby authorized, by and with the consent of the Council of State, to issue

1 and sell, at one time or from time to time, general obligation bonds of the State to be
2 designated "State of North Carolina Public School Building Bonds," with such
3 additional designations as may be determined to indicate the issuance of bonds from
4 time to time, or notes of the State as herein provided, in an aggregate principal amount
5 for the purposes authorized in this act.

6 Sec. 5. Uses of bond and note proceeds. The proceeds of public school
7 building bonds and notes shall be used for paying the cost of providing public school
8 buildings including the planning, construction, reconstruction, enlargement,
9 improvement, repair, or renovation of public school buildings, the purchase of land
10 necessary for immediate construction of school buildings and other related capital
11 outlay projects constituting facilities for individual schools that are used for
12 instructional and related purposes, but not including centralized administration,
13 maintenance, or other facilities.

14 Sec. 6. Allocation of proceeds. The proceeds of public school building
15 bonds and notes, including premiums thereon, if any, except the proceeds of bonds the
16 issuance of which has been anticipated by bond anticipation notes or the proceeds of
17 refunding bonds or notes, shall be placed by the State Treasurer in a special fund to be
18 designated "School Buildings Bonds Fund." Moneys in the School Buildings Bonds
19 Fund shall be used for the purposes set forth in this act.

20 Any additional moneys which may be received by means of a grant or grants
21 from the United States of America or any agency or department thereof or from any
22 other source to aid in financing the cost of public school buildings may be placed by the
23 State Treasurer in the School Buildings Bonds Fund or in a separate account or fund and
24 shall be disbursed, to the extent permitted by the terms of such grant or grants, without
25 regard to any limitations imposed by this act.

26 The proceeds of Public School Buildings Bonds and notes may be used with
27 any other moneys made available by the General Assembly to aid in financing the cost
28 of public school buildings, including the proceeds of any other State bond issues,
29 whether heretofore made available or which may be made available at the session of the
30 General Assembly at which this act is ratified or any subsequent sessions. The proceeds
31 of Public School Buildings Bonds and notes shall be expended and disbursed under the
32 direction and supervision of the Director of the Budget. The funds provided by this act
33 to aid in financing the cost of public school buildings shall be disbursed for the purposes
34 provided in this act upon warrants drawn on the State Treasurer by the State
35 Comptroller, which warrants shall not be drawn until requisition has been approved by
36 the Director of the Budget and which requisition shall be approved only after full
37 compliance with the Executive Budget Act, Article 1 of Chapter 143 of the General
38 Statutes.

39 Sec. 7. Election. The question of the issuance of the North Carolina Public
40 School Building Bonds authorized by this act shall be submitted to the qualified voters
41 of the State at an election to be held on a date to be fixed by the Governor by
42 proclamation issued by him, but in any event not later than November 3, 1992. Any
43 other primary, election, or referendum validly called or scheduled by law at the time the
44 election on the bond questions provided for in this section is held may be held as called

1 or scheduled. Notice of the election on the bond question shall be given by publication
2 twice in a newspaper or newspapers having general circulation in each county in the
3 State, and the election and the registration of voters therefor shall be held under and in
4 accordance with the general laws of the State. Absentee ballots shall be authorized in
5 the election.

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

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

15 "[] FOR the issuance of State of North Carolina Public School Building
16 Bonds secured by a pledge of the faith and credit and taxing power of
17 the State for paying, with any other available funds, the cost of
18 providing public school buildings and other capital projects to be used
19 for instructional purposes.

20 [] AGAINST the issuance of State of North Carolina Public School
21 Building Bonds secured by a pledge of the faith and credit and taxing
22 power of the State for paying, with any other available funds, the cost
23 of providing public school buildings and other capital projects to be
24 used for instructional purposes."

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

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

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

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

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

33 (d) Notes; repayment.

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

- 38 a. For anticipating the sale of bonds to the issuance of which the
39 Council of State shall have given consent, if the State Treasurer
40 shall deem it advisable to postpone the issuance of the bonds;
- 41 b. For the payment of interest on or any installment of principal of
42 any bonds then outstanding, if there shall not be sufficient funds
43 in the State treasury with which to pay the interest or
44 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 or
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) References in this act to specific sections or Chapters of the General Statutes
26 are intended to be references to such sections as they may be amended from time to time
27 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. This act is effective upon ratification.