

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1991

S

2

SENATE BILL 930

Appropriations Committee Substitute Adopted 6/3/91 With Amendment

Short Title: State Capital Facility Bonds.

(Public)

Sponsors:

Referred to:

May 13, 1991

A BILL TO BE ENTITLED

1
2 **AN ACT TO AUTHORIZE THE ISSUANCE OF NOT IN EXCESS OF FORTY-FIVE**
3 **MILLION DOLLARS BONDS OF THE STATE TO PROVIDE FUNDS, WITH**
4 **ANY OTHER AVAILABLE FUNDS, FOR STATE CAPITAL FACILITIES,**
5 **SUCH AUTHORIZED BONDS TO BE ISSUED WITHOUT AN ELECTION**
6 **DURING THE BIENNIUM ENDED JUNE 30, 1993, IN AN AMOUNT NOT IN**
7 **EXCESS OF THIS AUTHORIZED AMOUNT AND NOT IN EXCESS OF TWO-**
8 **THIRDS OF THE AMOUNT BY WHICH THE STATE'S OUTSTANDING**
9 **INDEBTEDNESS WILL HAVE BEEN REDUCED DURING THE 1989-91**
10 **BIENNIUM.**

11 The General Assembly of North Carolina enacts:

12 Section 1. Short title. This act shall be known and may be cited as the
13 "Capital Facilities Legislative Bond Act of 1991."

14 Sec. 2. Findings and determinations. It is the intent and purpose of the
15 General Assembly by this act to provide for the issuance of general obligation bonds of
16 the State in order to facilitate the payment of the capital costs required in connection
17 with providing State capital facilities.

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

- 20 (1) " Bonds" means the bonds issued under this act.
21 (2) " Cost" means, without intending thereby to limit or restrict any proper
22 definition of such word in financing the cost of State capital facilities
23 as authorized by this act,

- 1 a. The cost of constructing, reconstructing, renovating, repairing,
2 enlarging, acquiring and improving capital facilities, and
3 acquiring equipment and land therefor,
4 b. The cost of engineering, architectural, and other consulting
5 services as may be required,
6 c. Administrative expenses and charges,
7 d. The cost of bond insurance, investment contracts, credit
8 enhancement and liquidity facilities, interest-rate swap
9 agreements, financial and legal consultants and related costs of
10 bond and note issuance, to the extent and as determined by the
11 State Treasurer, and
12 e. Any other costs and expenses necessary or incidental to the
13 purposes of this act.
- 14 (3) " Credit facility" means an agreement entered into by the State
15 Treasurer on behalf of the State with a bank, savings and loan
16 association or other banking institution, an insurance company,
17 reinsurance company, surety company or other insurance institution, a
18 corporation, investment banking firm or other investment institution,
19 or any financial institution or other similar provider of a credit facility,
20 which provider may be located within or without the United States of
21 America, such agreement providing for prompt payment of all or any
22 part of the principal or purchase price (whether at maturity,
23 presentment or tender for purchase, redemption or acceleration),
24 redemption premium, if any, and interest on any bonds or notes
25 payable on demand or tender by the owner, in consideration of the
26 State agreeing to repay the provider of the credit facility in accordance
27 with the terms and provisions of such agreement.
- 28 (4) " Notes" means the notes issued under this act.
- 29 (5) " Par formula" means any provision or formula adopted by the State to
30 provide for the adjustment, from time to time, of the interest rate or
31 rates borne by any bonds or notes, including:
- 32 a. A provision providing for such adjustment so that the purchase
33 price of such bonds or notes in the open market would be as
34 close to par as possible,
35 b. A provision providing for such adjustment based upon a
36 percentage or percentages of a prime rate or base rate, which
37 percentage or percentages may vary or be applied for different
38 periods of time, or
39 c. Such other provision as the State Treasurer may determine to be
40 consistent with this act and will not materially and adversely
41 affect the financial position of the State and the marketing of
42 bonds or notes at a reasonable interest cost to the State.

43 Sec. 4. Authorization of bonds and notes. The State Treasurer is hereby
44 authorized, by and with the consent of the Council of State as herein provided, to issue

1 and sell at one time or from time to time in the biennium ending June 30, 1993, general
2 obligation bonds of the State to be designated "State of North Carolina Capital
3 Improvement Bonds, Series 199_," or notes of the State as herein provided, in an
4 aggregate principal amount not to exceed forty-five million dollars (\$45,000,000), this
5 amount being not in excess of two-thirds of the amount by which the State's outstanding
6 indebtedness was reduced during the biennium ended June 30, 1991, for the purpose of
7 providing funds, with any other available funds, for the uses authorized in this act.

8 If the forty-five million dollars (\$45,000,000) maximum principal amount of
9 bonds and notes herein authorized shall be in excess of two-thirds of the amount by
10 which the State's outstanding indebtedness shall have been reduced during the biennium
11 ended June 30, 1991, and the amount of bonds and notes issued hereunder shall on that
12 account be less than forty-five million dollars (\$45,000,000), the difference between the
13 proceeds of the bonds and notes and the forty-five million dollars (\$45,000,000)
14 aggregate bond proceeds set forth above may be made up from other available sources
15 or the costs of the authorized uses may be reduced.

16 Sec. 5. Uses of bond and note proceeds. The proceeds of bonds and notes
17 shall be used for financing the cost of State capital facilities as herein provided,
18 including, without limitation, the cost of constructing capital facilities, renovating,
19 repairing or reconstructing existing buildings, utilities, and other capital facilities,
20 acquiring equipment related thereto, purchasing land, paying costs of issuance of bonds
21 and notes and paying contractual services necessary for the completion of the purposes
22 of this act.

23 The proceeds of bonds and notes, including premium thereon, if any, except
24 the proceeds of bonds the issuance of which has been anticipated by bond anticipation
25 notes or the proceeds of refunding bonds or notes, shall be placed by the State Treasurer
26 in a special fund to be designated the "State Capital Facilities Legislative Bond Fund of
27 1991" and shall be disbursed as herein provided.

28 Any additional moneys which may be received by grant from the United
29 States of America or any agency or department thereof or from any other source to aid
30 in financing the cost of any capital facilities authorized by this act may be placed by the
31 State Treasurer in the State Capital Facilities Legislative Bond Fund of 1991 or in a
32 separate fund and shall be disbursed, to the extent permitted by the terms of the grant,
33 without regard to any limitations imposed by this act.

34 The proceeds of bonds and notes may be used with any other moneys made
35 available by the General Assembly for the cost of State capital facilities, including the
36 proceeds of any other State bond issues, whether heretofore made available or which
37 may be made available at the session of the General Assembly at which this act is
38 ratified or any subsequent sessions. The proceeds of bonds and notes shall be expended
39 and disbursed under the direction and supervision of the Director of the Budget. The
40 funds provided by this act shall be disbursed for the purposes provided in this act upon
41 warrants drawn on the State Treasurer by the State Comptroller, which warrants shall
42 not be drawn until requisition has been approved by the Director of the Budget and
43 which requisition shall be approved only after full compliance with the Executive
44 Budget Act, Article 1 of Chapter 143 of the General Statutes.

1 The Office of State Budget and Management shall provide quarterly reports
 2 to the Joint Legislative Commission on Governmental Operations, the Chairs of the
 3 Senate and House of Representatives Appropriation Committees, and the Fiscal
 4 Research Division on the expenditure of moneys from the State Capital Facilities
 5 Legislative Bond Fund of 1991. The reports shall continue until the completion of the
 6 projects provided for in the State Capital Facilities Legislative Bond Fund of 1991.

7 Sec. 6. Allocation of proceeds. The proceeds of bonds and notes shall be
 8 allocated and expended for paying the cost of State capital facilities to the extent and as
 9 provided in this act and subject to change as herein provided, as follows:

<u>Projected</u>	<u>Department</u>	<u>Project</u>	<u>Allocation</u>
13	Department of	New Central Heat	\$
14	6,594,500		
15	Administration	Plant	
16			
17	Department of Human	Murdoch	Center-
18		1,400,000	
19	Resources	Parkview Cottage	
20		Renovation	
21		John Umstead Hospital:	
22		Alum Sludge Treatment	Facility
23		\$1,100,000	
24		Black Mountain Center	
25		Renovations	
26		1,300,000	
27			
28	Department of Crime	Replace	Underground
29		92,000	
30	Control & Public	Storage Tanks to Comply	
31	Safety	with EPA requirements	
32		Armory at	Goldsboro
33		371,750	
34		Armory at	Clinton
35		362,150	
36			
37	Office of State Budget	Clean Water	Revolving
38		6,600,000	
39	and Management	Loan and Grant Program	
40			
41	Office of State Budget	Repairs,	Reconstruction,
42		30,313,500	
43	and Management	and Renovation	
44			

1 Allocations made pursuant to this section to the Department of Crime Control
2 and Public Safety for the Armory at Goldsboro and the Armory at Clinton are
3 contingent upon federal funds being available.

4 Projected allocations set forth above may be increased to reflect the
5 availability of other funds, including, without limitation, contingency funds, income
6 earned on the investment of bond and note proceeds, and the proceeds of any grants.

7 The Director of the Budget may, when the Director determines it is in the best
8 interest of the State to do so, and if the cost of a particular project is less than the
9 projected allocation, use the excess funds to increase the size of that project or to
10 increase the size of any other project itemized in this section, or to increase the amount
11 allocated to a particular institution within the aggregate amount of funds available under
12 this section including the proceeds of any investment earnings. Prior to taking any
13 action under this subdivision, the Director of the Budget may consult with the Advisory
14 Budget Commission.

15 The Office of State Budget and Management shall provide quarterly reports
16 to the Chairs of the Appropriations Committee and the Base Budget Committee in the
17 Senate, the Chair of the Appropriations Committee in the House of Representatives, the
18 Joint Legislative Commission on Governmental Operations, and the Fiscal Research
19 Division as to any changes in projects and allocations made under this section.

20 Sec. 7. Issuance of bonds and notes.

21 (1) Terms and conditions. Bonds or notes may bear such date or dates,
22 may be serial or term bonds or notes, or any combination thereof, may
23 mature in such amounts and at such time or times, not exceeding 40
24 years from their date or dates, may be payable at such place or places,
25 either within or without the United States of America, in such coin or
26 currency of the United States of America as at the time of payment is
27 legal tender for payment of public and private debts, may bear interest
28 at such rate or rates, which may vary from time to time, and may be
29 made redeemable before maturity, at the option of the State or
30 otherwise as may be provided by the State, at such price or prices,
31 including a price less than the face amount of the bonds or notes, and
32 under such terms and conditions, all as may be determined by the State
33 Treasurer, by and with the consent of the Council of State.

34 (2) Signatures; form and denomination; registration. Bonds or notes may
35 be issued as certificated or uncertificated obligations. If issued as
36 certificated obligations, bonds or notes shall be signed on behalf of the
37 State by the Governor or shall bear his facsimile signature, shall be
38 signed by the State Treasurer or shall bear his facsimile signature, and
39 shall bear the Great Seal of the State or a facsimile thereof shall be
40 impressed or imprinted thereon. If bonds or notes bear the facsimile
41 signatures of the Governor and the State Treasurer, the bonds or notes
42 shall also bear a manual signature which may be that of a bond
43 registrar, trustee, paying agent or designated assistant of the State
44 Treasurer. Should any officer whose signature or facsimile signature

1 appears on bonds or notes cease to be such officer before the delivery
2 of the bonds or notes, the signature or facsimile signature shall
3 nevertheless have the same validity for all purposes as if the officer
4 had remained in office until delivery and bonds or notes may bear the
5 facsimile signatures of persons who at the actual time of the execution
6 of the bonds or notes shall be the proper officers to sign any bond or
7 note although at the date of the bond or note such persons may not
8 have been such officers. The form and denomination of bonds or
9 notes, including the provisions with respect to registration of the bonds
10 or notes and any system for their registration, shall be as the State
11 Treasurer may determine in conformity with this act; provided,
12 however, that nothing in this act shall prohibit the State Treasurer from
13 proceeding, with respect to the issuance and form of the bonds or
14 notes, under the provisions of Chapter 159E of the General Statutes,
15 the Registered Public Obligations Act, as well as under this act.

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

29 (4) Notes; repayment.

30 a. By and with the consent of the Council of State, the State
31 Treasurer is hereby authorized to borrow money, and to execute
32 and issue notes of the State for the same, but only in the
33 following circumstances and under the following conditions:

- 34 1. For anticipating the sale of bonds to the issuance of
35 which the Council of State shall have given consent, if
36 the State Treasurer shall deem it advisable to postpone
37 the issuance of the bonds;
- 38 2. For the payment of interest on or any installment of
39 principal of any bonds then outstanding, if there shall not
40 be sufficient funds in the State treasury with which to
41 pay the interest or installment of principal as they
42 respectively become due;
- 43 3. For the renewal of any loan evidenced by notes herein
44 authorized;

- 1 4. For the purposes authorized in this act; and
 2 5. For refunding bonds or notes as herein authorized.
- 3 b. Funds derived from the sale of bonds or notes may be used in
 4 the payment of any bond anticipation notes issued under this
 5 act. Funds provided by the General Assembly for the payment
 6 of interest on or principal of bonds shall be used in paying the
 7 interest on or principal of any notes and any renewals thereof,
 8 the proceeds of which shall have been used in paying interest on
 9 or principal of the bonds.
- 10 (5) Refunding bonds and notes. By and with the consent of the Council of
 11 State, the State Treasurer is authorized to issue and sell refunding
 12 bonds and notes pursuant to the provisions of the State Refunding
 13 Bond Act for the purpose of refunding bonds or notes issued pursuant
 14 to this act. The refunding bonds and notes may be combined with any
 15 other issues of State bonds and notes similarly secured.
- 16 (6) Tax exemption. Bonds and notes and their transfer (including any
 17 profit made on the sale thereof) shall be exempt from all State, county
 18 and municipal taxation or assessment, direct or indirect, general or
 19 special, whether imposed for the purpose of general revenue or
 20 otherwise, excluding inheritance and gift taxes. The interest on bonds
 21 and notes shall not be subject to taxation as to income, nor shall the
 22 bonds and notes be subject to taxation when constituting a part of the
 23 surplus of any bank, trust company, or other corporation.
- 24 (7) Investment eligibility. Bonds and notes are hereby made securities in
 25 which all public officers, agencies, and public bodies of the State and
 26 its political subdivisions, all insurance companies, trust companies,
 27 investment companies, banks, savings banks, savings and loan
 28 associations, credit unions, pension or retirement funds, other financial
 29 institutions engaged in business in the State, executors, administrators,
 30 trustees and other fiduciaries may properly and legally invest funds,
 31 including capital in their control or belonging to them. Bonds and
 32 notes are hereby made securities which may properly and legally be
 33 deposited with and received by any officer or agency of the State or
 34 political subdivision of the State for any purpose for which the deposit
 35 of bonds, notes or obligations of the State or any political subdivision
 36 is now or may hereafter be authorized by law.
- 37 (8) Faith and credit. The faith and credit and taxing power of the State are
 38 hereby pledged for the payment of the principal of and the interest on
 39 bonds and notes.
- 40 Sec. 8. Variable interest rates. In fixing the details of bonds and notes, the
 41 State Treasurer may provide that any of the bonds or notes may:
- 42 (1) Be made payable from time to time on demand or tender for purchase
 43 by the owner thereof provided a credit facility supports the bonds or
 44 notes, unless the State Treasurer specifically determines that a credit

1 facility is not required upon a finding and determination by the State
2 Treasurer that the absence of a credit facility will not materially and
3 adversely affect the financial position of the State and the marketing of
4 the bonds or notes at a reasonable interest cost to the State;

5 (2) Be additionally supported by a credit facility;

6 (3) Be made subject to redemption or a mandatory tender for purchase
7 prior to maturity;

8 (4) Bear interest at a rate or rates that may vary for such period or periods
9 of time, all as may be provided in the proceedings providing for the
10 issuance of the bonds or notes, including, without limitation, such
11 variations as may be permitted pursuant to a par formula; and

12 (5) Be made the subject of a remarketing agreement whereby an attempt is
13 made to remarket bonds or notes to new purchasers prior to their
14 presentment for payment to the provider of the credit facility or to the
15 State.

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

24 Sec. 9. Interpretation of act.

25 (a) Additional method. The foregoing sections of this act shall be deemed to
26 provide an additional and alternative method for the doing of the things authorized
27 thereby and shall be regarded as supplemental and additional to powers conferred by
28 other laws, and shall not be regarded as in derogation of any powers now existing.

29 (b) Statutory references. References in this act to specific sections or Chapters of
30 the General Statutes are intended to be references to such sections as they may be
31 amended from time to time by the General Assembly.

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

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

38 Sec. 10. Effective date. This act is effective upon ratification.