

March 23, 2009

**S 754. STATUTORY CHANGES FOR ARRTA FUNDS.** Filed 3/23/09. *TO AMEND THE NORTH CAROLINA GENERAL STATUTES TO ALLOW THE STATE TO TAKE FULL ADVANTAGE OF FEDERAL ECONOMIC STIMULUS LEGISLATION ALSO KNOWN AS THE AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009 (ARRTA).*

Amends Article 34B (Qualified Zone Academy Bonds) of GS Chapter 115C, Article 51B (NC Federal Tax Reform Allocation Committee) of GS Chapter 143, and GS 159C-3 (Industrial And Pollution Control Facilities Financing Act) as the title indicates.

*GS Chapter 115C, Article 34B.* Amends GS 115C-489.5 to provide that Section 226 of the Taxpayer relief Act of 1997, as codified at 26 U.S.C. Section 54E (was, 26 U.S.C. Section 1397), provides funds for school improvements through taxable qualified zone academy bonds. Declares that federal law, the *American Recovery and Reinvestment Act of 2009 (ARRTA)*, enacted as 26 U.S.C. Section 54F, provides a new source of funds for construction, rehabilitation, or repair of public school facilities through the issuance of qualified school construction bonds. Provides that *qualified school construction bonds* (construction bonds) are to be treated under Article 34B in the same manner as *qualified zone academy bonds* (zone bonds) with regards to federal tax credits for eligible taxpayers holding either construction bonds or zone bonds. Also provides that the applicable federal law limits the amount of construction bonds that may be issued in a calendar year.

Under current law, the State Board of Education (SBE) administers the zone bonds program. Directs the SBE to also administer the construction bonds program. Designates the responsibilities of the SBE in administering the construction bonds program. Provides that construction bonds are to be issued in the same manner and under the same guidelines as the zone bonds.

Makes technical and conforming changes.

*GS Chapter 143, Article 51B.* Finds that ARRTA also added a new type of exempt facility bond known as *recovery zone facility bonds* (recovery bonds) to be used to finance construction, renovation, and equipping of recovery zone property for use in any trade or business in a recovery zone, all as defined in AARTA. Provides a formula for allocating authority to the states to issue recovery bonds and provides that the states may reallocate that authority to counties and large municipalities within the state. Adds administration of the recovery bonds to the duties of the NC Federal Tax Reform Allocation Committee (Committee). Provides for the allocation of the recovery bonds. Directs that in reallocating allocation for recovery bonds, the Committee is to follow the formula provided in section 1400U-1(a)(3) of ARRTA.

*GS 159C-3.* Defines *Code*, as it applies in GS Chapter 159C (authorizing counties to create *County Industrial Facilities and Pollution Control Financing Authority* to address pollution and unemployment issues), as meaning the Internal Revenue Code of 1986, as amended. Expands the definition of *industrial project* to include a facility used in manufacturing or production of tangible personal property or intangible property and to include a facility that qualifies as a *recovery zone property* under section 1400U-3 of ARRTA.

**Intro. by Clodfelter.**

GS 115C, 143, 159C

April 29, 2009

**S 754. CHANGES FOR BONDS AUTHORIZED UNDER ARRTA (NEW).** Filed 3/23/09. Senate committee substitute makes the following changes to 1st edition.

*GS Chapter 115C, Article 34B, Qualified Zone Academy Bonds.* Amends GS 115C-489.5 to clarify that the federal American Recovery and Reinvestment Tax Act of 2009 (ARRTA) includes providing a source of funds for the acquisition of land for public school facilities. Clarifies that the qualified zone academy bonds (zone bonds) and qualified school construction bonds (construction bonds) are to be sold at a price (was, at par value) so that the tax credits that are received produce the economic equivalent of interest that would have otherwise been paid on the bonds. Provides that the issuers of either the zone bonds or the construction bonds are obligated to repay the principal amount of the bonds but do not have to make the interest payments. Divides the amount of construction bonds that may be issued into: (1) amounts that are

specifically designated for identified local school districts under ARRTA (local allocation) and (2) amounts allocated to North Carolina for use throughout the state (statewide allocation).

Amends GS 115C-489.6 to designate the State Board of Education (SBE) as the state education agency responsible for administering the statewide allocation (was, allocation) of authority to issue construction bonds under ARRTA. Makes additional conforming changes specifying that the SBE's authority extends to the statewide allocation for the construction bonds. Specifies that it is among the SBE's duties to establish conditions for use of the allocations designed to ensure that the allocations are made in accordance with the requirements of federal statutes, regulations, and rulings. Directs local school districts to coordinate the use of its local allocation with the SBE so that any unused local allocation by a local school district becomes eligible as a statewide allocation. Designates the SBE as the state entity to receive notice from any local school district regarding its unused local allocation.

*GS Chapter 143, Article 51B, North Carolina Federal Tax Reform Allocation Committee.*

Amends GS 143-433.6 to declare that Section 1400U-3 of ARRTA adds a new type of government bond called "recovery zone economic development bonds." States that ARRTA provides a formula for allocating the authority to issue recovery zone economic development bonds and recovery zone facility bonds to the states, and that authority is reallocated by the state to counties and municipalities within the state. Provides that the General Assembly finds and determines that Section 54D of the Internal Revenue Code of 1986, as amended, permits the issuance of tax credit bonds called "qualified energy conservation bonds" (QECBs), the proceeds of which must be used for certain energy conservation purposes that are enumerated in Section 54D. Provides additional specifications regarding the QECBs and the authority to issue the bonds and permitted use of the bonds.

Amends GS 143-433.8 to add the management of recovery zone economic development bonds and qualified energy conservation bonds to the duties of the North Carolina Federal Tax Reform Allocation Committee (Committee), including studying how to best manage and utilize the allocation of these bonds in the state.

Amends GS 143-433.9(a) to direct the Committee regarding the allocation of the bonds managed under Article 51B. Specifically adds (1) recovery zone facility bonds, (2) recovery zone economic development bonds, and (3) qualified energy conservation bonds to the allocation provisions of this section. Requires the Committee to follow formulas for allocating limitations on the specified bonds. Directs the Committee to follow the formula provided in Section 1400U-1(a)(3) of ARRTA in making the initial allocations for recovery zone facility bonds and recovery zone economic development bonds and to follow the guidelines in Section 54D in making the initial allocation for qualified energy conservation bonds. Delineates additional responsibilities of the Committee in exercising its allocation authority on behalf of the state.

*GS Chapter 159, Local Government Finance.* Amends GS 159-123(b) regarding the classes of bonds that may be sold at a private sale. Adds the following classes of bonds to those that may be sold at private sale: (1) bonds of which the ownership results in a tax credit to the owners under federal income tax laws (was, bonds designated as qualified zone academy bonds pursuant to GS 115C-489.6) if the Local Government Commission determines that a private sale is in the best interest of the issuing unit and (2) general obligation bonds, sold prior to December 31, 2010, that are rated below AA grade, issued under the Local Government Bond Act, and that are not described in subdivisions (1) through (7) of GS 159-123(b).

*Miscellaneous.* Amends GS 159C-36 and amends GS 159D-45 to authorize a county or a city to designate an agency as the government entity authorized to issue recovery zone facility bonds. Amends GS 159C-3 to allow facilities that qualify as recovery zone property in connection with the issuance of recovery zone facility bonds to qualify as "special purpose projects." Amends GS 159D-3 to allow facilities used in the production of tangible or intangible personal property and distribution facilities for industrial or manufactured products to qualify as "projects." Amends the title. Makes technical and conforming changes.

May 27, 2009

**S 754. CHANGES FOR BONDS AUTHORIZED UNDER ARRTA.** Filed 3/23/09. House committee substitute makes the following changes to 2nd edition. Amends GS 159-123(b)(8) to

clarify that general obligation bonds that may be sold at private sale must have been (1) issued pursuant to the Local Government Bond Act and (2) rated by a nationally recognized credit rating agency at a credit rating below "AA", or comparable category if stated differently. Also enacts GS 159-123(b)(9) to provide that if the Local Government Commission determines that a private sale is in the best interest of the issuing unit, bonds that are part of an issue in which the interest payments on some or all of the bonds are intended to be subsidized by payments from the federal government under federal tax laws may be sold at private sale.

June 22, 2009

**SL 2009-140 (S 754). CHANGES FOR BONDS AUTHORIZED UNDER ARRTA. AN ACT TO AMEND THE NORTH CAROLINA GENERAL STATUTES TO ALLOW THE STATE TO TAKE FULL ADVANTAGE OF THE EXPANSION OF EXISTING BOND PROGRAMS AND THE CREATION OF NEW BOND PROGRAMS UNDER THE AMERICAN RECOVERY AND REINVESTMENT TAX ACT OF 2009 (ARRTA).** Summarized in *Daily Bulletin* 3/23/09, 4/29/09, and 5/27/09. Enacted June 19, 2009. Effective June 19, 2009.