



Bill Draft 2017-MLz-205A: Build NC Bond Act.

2017-2018 General Assembly

Committee: House Select Committee on Strategic Date: April 27, 2018
Transportation Planning and Long Term
Funding Solutions

Introduced by: Prepared by: Luke Gillenwater
Analysis of: 2017-MLz-205A Staff Attorney

OVERVIEW: 2017-MLz-205A authorizes the State Treasurer to issue Build NC Bonds, a type of special indebtedness in which the proceeds shall be used only for Division Need Projects and Regional Impact Projects in accordance with the Strategic Transportation Investments ("STI") law set forth in Article 14B of Chapter 136 of the General Statutes.

CURRENT LAW: The State Capital Facilities Act, which is set forth in Article 9 of Chapter 142 of the General Statutes, authorizes the State to incur or issue special indebtedness, subject to the various terms and conditions in the Article. Special indebtedness issued under this Article may be used to finance the cost of "capital facilities," which that term is defined as any one or more of the following:

- Any one or more buildings, utilities, structures, or other facilities or property developments, including streets and landscaping, and the acquisition of equipment, machinery, and furnishings in connection with these items.
- Additions, extensions, enlargements, renovations, and improvements to existing buildings, utilities, structures, or other facilities or property developments, including streets and landscaping.
- Land or an interest in land.
- Other infrastructure.
- Furniture, fixtures, equipment, vehicles, machinery, and similar items.

Special indebtedness is not secured by the full faith and credit (taxing power) of the State, so voter approval is not required.

BILL ANALYSIS: 2017-MLz-205A does the following:

- **Section 1:** Provides that the act shall be known as the "Build NC Bond Act of 2018."
- **Section 2:** Amends the State Capital Facilities Act to do the following:
 - Authorize the issuance of Build NC Bonds, which is defined as special indebtedness issued to finance Build NC Projects.
 - Defines the term "Build NC Project" as a capital facility identified and selected for financing with Build NC Bonds by the process set forth in the STI law.
 - Provides that (i) approximately 50% of the proceeds from an issuance of Build NC Bonds may be used for Division Need Projects in accordance with the requirements of the STI law and (ii) the remainder of the proceeds may be used for Regional Impact Projects in accordance with the requirements of the STI law. No proceeds may be used for Statewide Strategic Mobility Projects.

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- **Section 3:** Further amends the State Capital Facilities Act to include the following requirements and limitations in regards to the issuance and sale of Build NC Bonds:
 - The source of repayment for Build NC Bonds is the Highway Trust Fund.
 - The State Treasurer shall not issue any Build NC Bonds unless (i) the State Treasurer recommends the issuance and (ii) the State Treasurer has made a determination that all of the following requirements have been or shall be met:
 - The Department of Transportation's average combined month-end cash balance for the first 3 months in the calendar year prior to the date of determination does not exceed a certain threshold.
 - The total amount of Build NC Bonds outstanding will not cause the recommended transportation debt target established by the Debt Affordability Advisory Committee to be exceeded.
 - At least 6 months prior to the expected date of a Build NC Bond issuance, the Department of Transportation has consulted with the State Treasurer, the Joint Legislative Transportation Oversight Committee, and the Joint Legislative Commission on Governmental Operations.
 - The total amount of special indebtedness resulting from the sale of Build NC Bonds shall not exceed \$3,000,000,000.
 - The Department of Transportation may not use the Build NC Proceeds for (i) non-highway projects or (ii) tolling projects.
 - Passage of this act would satisfy the requirement of G.S. 142-15.17 that the General Assembly expressly authorize this type of financing arrangement through legislation.
 - The aforementioned restrictions do not apply to a Build NC Bond used as a refunding bond under G.S. 142-29.5, which means the proceeds from a new debt issue may be used to retire an outstanding bond issue.
 - Since the special indebtedness is supported by the Highway Trust Fund, the limitation set forth in G.S. 142-83(b) regarding bond indebtedness supported by the General Fund does not apply.
 - Since the projects to be financed with Build NC Bonds are selected through the STI process, the requirement set forth in G.S. 142-84(e) that the Department of Administration make decisions about the type of facility and amount financed does not apply.
- **Section 4:** Provides that the maturity date for a Build NC Bond may not exceed 15 years.
- **Section 5:** Directs the State Treasurer to develop a debt management plan for Build NC Bonds.

EFFECTIVE DATE: This act is effective when it becomes law.