

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003

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SENATE DRS75158-LC-79 (03/25)

Short Title: Modify UNC Bond Law.

(Public)

Sponsors: Senator Clodfelter.

Referred to:

A BILL TO BE ENTITLED

AN ACT TO REVISE THE UNIVERSITY OF NORTH CAROLINA SPECIAL
OBLIGATION BOND LAW.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 116D-26 reads as rewritten:

"§ 116D-26. Issuance of special obligation bonds and bond anticipation notes.

(a) Authority. – The Board of Governors may issue, subject to the approval of the Director of the Budget, at one time or from time to time, special obligation bonds of the Board of Governors for the purpose of paying all or any part of the cost of acquiring, constructing, or providing a special obligation project. Before issuing special obligation bonds, the Board of Governors shall first adopt a resolution (i) setting forth the designation by the Board of Governors that the buildings or facilities to be financed by the bond issue are the special obligation bond project being financed and (ii) designating the obligated resources that will secure and be the source of payment of the special obligation bonds to be issued. The Board of Governors shall not issue any special obligation bonds unless the Board of Governors finds that sufficient obligated resources are reasonably expected to be available (i) to pay the principal and interest on the special obligation bonds proposed to be issued, (ii) to create and maintain any reserves for the payment of the special obligation bonds, to the extent the Board of Governors is required to maintain reserves for this purpose by the terms of the trust agreement or resolution authorizing the issuance of the special obligation bonds, and (iii) to provide for the maintenance and operation of the facilities that are to generate the obligated resources to the extent the Board of Governors is required to maintain those facilities by the terms of the trust agreement or resolution authorizing the issuance of the special obligation bonds. Notwithstanding any other provision of this Article, the proceeds of special obligation bonds to be secured by obligated resources derived from

1 the operation of or activities at one institution may not be applied to finance a special
2 obligation project to be located at another institution.

3 (b) Approval Required. – The Board of Governors shall not issue any special
4 obligation bonds for a project at an institution unless the board of trustees of that
5 institution has approved the issuance of bonds for that project. The Board of Governors
6 shall not issue special obligation bonds under this Article until the effective date of
7 legislation enacted by the General Assembly authorizing the undertaking of the special
8 obligation bond project to be financed and fixing the maximum aggregate principal
9 amount of special obligation bonds that shall be issued for that purpose. In submitting
10 proposed special obligation bond projects to the General Assembly for approval, the
11 Board of Governors shall submit information on the need for each project, project costs,
12 estimates of increased operating costs upon completion, estimated debt service
13 requirements, and the sources and amounts of obligated resources to be pledged for the
14 repayment of the bonds. If the obligated resources to repay the bonds or to operate the
15 proposed project potentially involve increased costs to students or to the General Fund,
16 these costs shall be identified in the Board of Governors' submission.

17 Except as provided in this Article, special obligation bond projects may be
18 undertaken, special obligation bonds may be issued, and other powers vested in the
19 Board of Governors under this Article may be exercised by the Board without obtaining
20 the consent of any department, division, commission, board, bureau, or agency of the
21 State and without any other proceedings or the happening of any other conditions or
22 things other than those proceedings, conditions, or things which are specifically
23 required by this Article.

24 (c) Term; Form. – The special obligation bonds of each issue shall be dated, shall
25 mature at any times not exceeding ~~25~~30 years from their dates, shall bear interest at any
26 rates as may be determined by the Board of Governors, and may be redeemable before
27 maturity at the option of the Board, at any prices and under any terms and conditions as
28 may be fixed by the Board prior to the issuance of the special obligation bonds. The
29 Board of Governors shall determine the form and manner of execution of the special
30 obligation bonds and shall fix the denominations of the special obligation bonds and the
31 places of payment of principal and interest, which may be at any bank or trust company
32 within or without the State. Notwithstanding any of the other provisions of this Article
33 or any recitals in any special obligation bonds issued under the provisions of this
34 Article, all special obligation bonds shall be negotiable instruments under the laws of
35 this State, subject only to the provisions for registration in a resolution authorizing the
36 issuance of the special obligation bonds or a trust agreement securing the bonds. The
37 Board of Governors may sell the special obligation bonds in any manner, at public or
38 private sale, and for any price, as it may determine to be for its best interests.

39 (d) Proceeds; Additional Bonds. – The proceeds of the special obligation bonds
40 of each issue shall be used solely for the purpose for which the bonds have been
41 authorized and shall be disbursed in the manner and under such restrictions, if any, as
42 the Board of Governors may provide in the resolution authorizing the issuance of the
43 bonds or in the trust agreement securing them. Unless otherwise provided in the
44 authorizing resolution or in the trust agreement securing the special obligation bonds, if

1 the proceeds of the special obligation bonds, by error of estimates or otherwise, are less
2 than the cost of the special obligation bond project, additional bonds may in like manner
3 be issued to provide the amount of the deficit and shall be deemed to be of the same
4 issue and shall be entitled to payment from the same fund without preference or priority
5 of the bonds first issued for the same purpose.

6 The resolution providing for the issuance of special obligation bonds, and any trust
7 agreement securing them, may also contain limitations upon the issuance of additional
8 special obligation bonds as the Board of Governors considers proper, and the additional
9 special obligation bonds must be issued under the restrictions and limitations prescribed
10 by the resolution or trust agreement.

11 (e) Temporary Bonds; Notes. – Before preparing definitive bonds, the Board of
12 Governors may, under like restrictions, issue interim receipts or temporary bonds
13 exchangeable for definitive bonds when the bonds have been executed and are available
14 for delivery. The Board may also provide for the replacement of any bonds which
15 become mutilated, destroyed, or lost.

16 The Board of Governors may enter into or negotiate a note with an acceptable bank
17 or trust company in lieu of issuing special obligation bonds for the financing of special
18 obligation bond projects covered under this Article. The terms and conditions of any
19 note of this nature shall be in accordance with the terms and conditions surrounding
20 issuance of the special obligation bonds.

21 (f) Bond Anticipation Notes. – The Board of Governors may issue, subject to the
22 approval of the Director of the Budget, at one time or from time to time, bond
23 anticipation notes of the Board of Governors in anticipation of the issuance of special
24 obligation bonds authorized by this Article. The principal of and the interest on these
25 notes shall be payable solely from the proceeds of special obligation bonds or renewal
26 notes or, in the event bond or renewal note proceeds are not available, from the
27 obligated resources designated for their payment. The notes of each issue shall be dated,
28 shall mature at any times not exceeding ~~two~~ 30 years from their dates, shall bear interest
29 at any rates as may be determined by the Board of Governors, and may be redeemable
30 before maturity, at the option of the Board of Governors, at any prices and under any
31 terms and conditions as may be fixed by the Board of Governors prior to the issuance of
32 the notes. If the Board of Governors issues a bond anticipation note for a term in excess
33 of three years, no individual project may be funded from the proceeds of the note for
34 longer than three years. The Board shall determine the form and the manner of
35 execution of the notes and shall fix the denominations of the notes and the places of
36 payment of principal and interest, which may be at any bank or trust company within or
37 without the State. Notwithstanding any of the other provisions of this Article or any
38 recitals in any notes issued under the provisions of this Article, all notes shall be
39 negotiable instruments under the laws of this State, subject only to the provisions for
40 registration in a resolution authorizing the issuance of the notes or any trust agreement
41 securing the bonds in anticipation of which the notes are being issued. The Board of
42 Governors may sell the notes in any manner, at public or private sale, and for any price,
43 as it may determine to be for its best interests.

1 The proceeds of the notes ~~of each issue~~ shall be used solely for the purpose for
2 which the special obligation bonds ~~in anticipation of which the notes are being issued~~
3 have been authorized, and the note proceeds shall be disbursed in any manner and under
4 any restrictions as the Board of Governors may provide in the resolution authorizing the
5 issuance of the notes or bonds or in the trust agreement securing the special obligation
6 bonds.

7 The resolution providing for the issuance of notes, and any trust agreement securing
8 the special obligation bonds in anticipation of which the notes are being authorized, may
9 also contain limitations upon the issuance of additional notes as the Board of Governors
10 considers proper, and such additional notes shall be issued under the restrictions and
11 limitations prescribed by the resolution or trust agreement. The Board may also provide
12 for the replacement of any notes which shall become mutilated, destroyed, or lost.

13 Except as provided in this Article, notes may be issued under this Article and other
14 powers vested in the Board of Governors under this Article may be exercised by the
15 Board without obtaining the consent of any department, division, commission, board,
16 bureau, or agency of the State and without any other proceedings or the happening of
17 any other conditions or things than those proceedings, conditions, or things which are
18 specifically required by this Article.

19 Unless the context indicates otherwise, the word 'bonds', wherever used in this
20 Article, include the words 'bond anticipation notes.' "

21 **SECTION 2.** This act is effective when it becomes law.