

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005**

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HOUSE BILL 254*
Committee Substitute Favorable 5/26/05
Committee Substitute #2 Favorable 7/7/05
Senate Finance Committee Substitute Adopted 8/11/05

Short Title: GARVEE Bond Issuance.

(Public)

Sponsors:

Referred to:

February 16, 2005

A BILL TO BE ENTITLED

1 AN ACT TO AUTHORIZE THE STATE TREASURER TO ISSUE "GARVEE"
2 GRANT ANTICIPATION REVENUE VEHICLE BONDS ON BEHALF OF THE
3 DEPARTMENT OF TRANSPORTATION, TO REQUIRE "GARVEE" FUNDS
4 TO BE DISTRIBUTED IN ACCORDANCE WITH THE EQUITY
5 DISTRIBUTION FORMULA, AND TO DIRECT THE SECRETARY OF THE
6 DEPARTMENT OF TRANSPORTATION AND THE STATE TREASURER TO
7 DEVELOP AN IMPLEMENTATION PLAN FOR ISSUANCE OF THE BONDS,
8 AS RECOMMENDED BY THE JOINT LEGISLATIVE TRANSPORTATION
9 OVERSIGHT COMMITTEE, AND TO CLARIFY THE DEFINITION OF
10 GOVERNMENTAL UNIT FOR PURPOSES OF INTEREST RATE SWAP
11 AGREEMENTS.
12

13 The General Assembly of North Carolina enacts:

14 **SECTION 1.** The Secretary of the Department of Transportation and the
15 State Treasurer shall jointly form a committee to develop a plan to implement the
16 provisions of this act. The plan shall address all financial, legal, and practical issues
17 involved in issuing "GARVEE" bonds. The plan shall be submitted to the Board of
18 Transportation for review and comment. Following review of the plan by the Board, the
19 two Departments shall jointly submit their implementation plan to the cochairs of the
20 Transportation Appropriations Subcommittee and the cochairs of the Joint Legislative
21 Transportation Oversight Committee by December 1, 2005.

22 **SECTION 2.** G.S. 136-18 is amended by adding a new subdivision to read:

23 "(12b) To issue "GARVEE" bonds (Grant Anticipation Revenue Vehicles) or
24 other eligible debt-financing instruments to finance federal-aid
25 highway projects using federal funds to pay a portion of principal,
26 interest, and related bond issuance costs, as authorized by 23 U.S.C. §
27 122, as amended (the National Highway System Designation Act of

1 1995, Pub. L. 104-59). These bonds shall be issued by the State
2 Treasurer on behalf of the Department and shall be issued pursuant to
3 an order adopted by the Council of State under G.S. 159-88. The State
4 Treasurer shall develop and adopt appropriate debt instruments,
5 consistent with the terms of the State and Local Government Revenue
6 Bond Act, Article 5 of Chapter 159 of the General Statutes, for use
7 under this subdivision. Prior to issuance of any "GARVEE" or other
8 eligible debt instrument using federal funds to pay a portion of
9 principal, interest, and related bond issuance costs, the State Treasurer
10 shall determine (i) that the total outstanding principal of such debt does
11 not exceed the total amount of federal transportation funds authorized
12 to the State in the prior federal fiscal year; or (ii) that the maximum
13 annual principal and interest of such debt does not exceed fifteen
14 percent (15%) of the expected average annual federal revenue shown
15 for the seven-year period in the most recently adopted Transportation
16 Improvement Program. Notes issued under the provisions of this
17 subdivision may not be deemed to constitute a debt or liability of the
18 State or of any political subdivision thereof, or a pledge of the full
19 faith and credit of the State or of any political subdivision thereof, but
20 shall be payable solely from the funds and revenues pledged therefor.
21 All the notes shall contain on their face a statement to the effect that
22 the State of North Carolina shall not be obligated to pay the principal
23 or the interest on the notes, except from the federal transportation fund
24 revenues as shall be provided by the documents governing the revenue
25 note issuance, and that neither the faith and credit nor the taxing power
26 of the State of North Carolina or of any of its political subdivisions is
27 pledged to the payment of the principal or interest on the notes. The
28 issuance of notes under this Part shall not directly or indirectly or
29 contingently obligate the State or any of its political subdivisions to
30 levy or to pledge any form of taxation whatever or to make any
31 appropriation for their payment."

32 **SECTION 3.** G.S. 136-17.2A is amended by adding a new subsection to
33 read:

34 "(i) All funds derived from "GARVEE" bonds issued pursuant to
35 G.S. 136-18(12b) shall be distributed in accordance with this section."

36 **SECTION 4.** G.S. 159-193(1) reads as rewritten:

37 **"§ 159-193. Definitions.**

38 The following definitions apply in this Article:

39 (1) Governmental unit. – Any of the following:

- 40 a. A unit of local government as defined in G.S. 159-44.
41 b. A municipality as defined in G.S. 159-81.
42 c. A joint agency as defined in G.S. 159B-3.
43 d. Any department, agency, board, commission, or authority of the
44 State that is authorized by law to issue bonds.

1 e. The State Treasurer ~~when participating in the issuance or~~
2 ~~incurrence~~in connection with the issuance, incurrence,
3 carrying, or securing of obligations for or on behalf of the State
4 pursuant to an act of the General Assembly.

5 ..."

6 **SECTION 5.** Section 2 of this act becomes effective February 1, 2006. The
7 remainder of this act is effective when it becomes law.