

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

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SENATE DRS55261-MCx-165 (3/12)

Short Title: Statutory Changes for ARRTA Funds. (Public)

Sponsors: Senator Clodfelter.

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO AMEND THE NORTH CAROLINA GENERAL STATUTES TO ALLOW THE
3 STATE TO TAKE FULL ADVANTAGE OF FEDERAL ECONOMIC STIMULUS
4 LEGISLATION ALSO KNOWN AS THE AMERICAN RECOVERY AND
5 REINVESTMENT ACT OF 2009 (ARRTA).

6 The General Assembly of North Carolina enacts:

7 SECTION 1. Article 34B of Chapter 115C of the General Statutes reads as
8 rewritten:

9 "Article 34B.

10 "Qualified Zone Academy Bonds.

11 "§ 115C-489.5. Qualified zone academy bonds; findings.

12 The General Assembly finds:

13 (1) Section 226 of the Taxpayer Relief Act of 1997, as codified at ~~26 U.S.C. §~~
14 ~~1397E, 26 U.S.C. § 54E~~, provides funds for school improvements through
15 taxable qualified zone academy bonds. Ninety-five percent (95%) or more of
16 the proceeds of a qualified zone academy bond issue must be used for a
17 qualified purpose with respect to a qualified zone academy established by an
18 eligible local education agency.

19 ...

20 (2a) Section 1521 et seq., of the American Recovery and Reinvestment Act of
21 2009 (ARRTA), enacted as 26 U.S.C. § 54F, provides a new source of funds
22 for construction, rehabilitation, or repair of public school facilities through
23 the issuance of qualified school construction bonds.

24 (3) Eligible taxpayers may receive federal tax credits for holding the qualified
25 zone academy ~~bonds~~ bonds or qualified school construction bonds. It is
26 intended that the qualified zone academy bonds and qualified school
27 construction bonds be sold at par value so that the tax credits received are
28 instead of interest that otherwise would have been paid on the bonds.
29 Therefore, issuers of qualified zone academy bonds and qualified school
30 construction bonds are obligated to repay the principal amount of the
31 qualified zone academy bonds but need not make interest payments.

32 (4) Applicable federal law limits the amount of qualified zone academy bonds
33 and qualified school construction bonds that may be issued in North
34 Carolina in a calendar year.

35 "§ 115C-489.6. Administration; consultation; issuance of bonds.



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1 (a) State Board of Education to Administer QZAB Program. – The State Board of
2 Education is designated the State education agency responsible for administering the qualified
3 zone academy bond program in North Carolina for the purposes of ~~26 U.S.C. § 1397E.26~~
4 U.S.C. § 54E. The State Board of Education shall perform all activities required to implement
5 and carry out the qualified zone activity bond program in North Carolina. Those activities
6 include:

7 ...

8 (a1) State Board of Education to Administer Qualified School Construction Bond
9 Program. – The State Board of Education is designated the State education agency responsible
10 for administering the allocation of authority to issue qualified school construction bonds under
11 26 U.S.C. § 54F. The State Board of Education shall perform all activities required to
12 implement and carry out such allocation for the qualified zone activity bond program in North
13 Carolina. Those activities include:

14 (1) Designing an application process under which proposals may be solicited
15 from issuers wishing to issue qualified school construction bonds.

16 (2) Awarding the State's allocation of total funds among selected applicants and
17 establishing conditions upon the usage of the allocation. These conditions
18 may include:

19 a. Requiring that the bond proceeds be used for purposes permitted
20 under 26 U.S.C. § 54F.

21 b. Conditions designed to assure that the allocation is used in a timely
22 manner.

23 (3) Confirming that the terms of any qualified zone academy bonds issued in
24 accordance with this program are consistent with the terms of the federal
25 program.

26 (b) Assistance. – The Department of Public Instruction shall provide the State Board of
27 Education any support it requires in carrying out this section.

28 (c) Consultation. – In reviewing applications and awarding allocations, the State Board
29 of Education shall consult with the Local Government Commission to determine whether a
30 prospective issuer of qualified zone academy bonds or qualified school construction bonds is
31 able to issue or incur marketable obligations.

32 (d) Issuance of Bonds. – Any bonds designated as qualified zone academy bonds or
33 qualified school construction bonds may be issued pursuant to the applicable provisions of and
34 in compliance with the Local Government Bond Act, Article 4 of Chapter 159 of the General
35 Statutes, or pursuant to the applicable provisions of and in compliance with G.S. 160A-20, to
36 the extent authorized by G.S. 153A-158.1. As provided in G.S. 159-123(b), bonds designated
37 as qualified zone academy bonds or qualified school construction bonds to be issued pursuant
38 to the Local Government Bond Act may be sold by the Local Government Commission at
39 private sale."

40 **SECTION 2.** Article 51B of Chapter 143 of the General Statutes reads as
41 rewritten:

42 "Article 51B.

43 "North Carolina Federal Tax Reform Allocation Committee.

44 **§ 143-433.6. Legislative findings.**

45 ...

46 (c) The General Assembly further finds and determines that section 1400U-3 of the
47 American Recovery and Reinvestment Act of 2009 (ARRTA) added a new type of exempt
48 facility bond denominated recovery zone facility bonds, to be used to finance construction,
49 renovation, and equipping of recovery zone property for use in any trade or business in a
50 recovery zone, all as defined in AARTA, and provides a formula for allocation of authority to

1 issue recovery zone facility bonds to the states, and by which such authority is to be reallocated
 2 by the State to counties and large municipalities within the State.

3 ...

4 **"§ 143-433.8. Duties.**

5 The Committee shall perform the following duties:

- 6 (1) Manage the allocation of private activity bonds, low-income housing credits,
 7 ~~and~~ qualified public educational facility bonds and recovery zone facility
 8 bonds, and receive advice from bond issuers, elected officials, and the
 9 General Assembly.
- 10 (2) Continue to monitor bond markets, economic development financing trends,
 11 school financing trends, housing markets, and tax incentives available to
 12 induce events and programs favorable to North Carolina, its cities and
 13 counties, and individual citizens.
- 14 (3) Continue to study the ways in which North Carolina can best and most fairly
 15 manage and utilize the allocation of private activity bonds, low-income
 16 housing credits, ~~and~~ qualified public educational facility bonds-bonds and
 17 recovery zone facility bonds.
- 18 (4) Report to the Governor, Lieutenant Governor, the Speaker of the House of
 19 Representatives, the President Pro Tempore of the Senate, and the Revenue
 20 Laws Study Committee as requested and on not less than an annual basis.
 21 The annual report is due by November 1 of each year.

22 **"§ 143-433.9. Allocation.**

23 (a) To provide for the orderly and prompt issuance of private activity bonds and
 24 qualified public educational facility bonds, there are hereby proclaimed formulas for allocating
 25 the following: (i) the unified volume limitation, (ii) the state housing credit ceiling, ~~and~~ (iii) the
 26 annual aggregate limitation on the face amount of qualified public educational facility
 27 ~~bonds-bonds,~~ and (iv) the annual authority for recovery zone facility bonds. The unified volume
 28 limitation for all issues of private activity bonds, other than qualified public educational facility
 29 ~~bonds-bonds and recovery zone facility bonds,~~ in North Carolina shall be considered as a single
 30 resource to be allocated under this Article. The annual aggregate limitation on the face amount
 31 of qualified public educational facility bonds for all issues in North Carolina shall be
 32 considered as a single resource to be allocated under this Article. The Committee shall issue the
 33 following: (i) allocations of the unified volume limitation, (ii) allocations of the state housing
 34 credit ceiling, ~~and~~ (iii) allocations of the aggregate limitation on the face amount of qualified
 35 public educational facility ~~bonds-bonds,~~ and (iv) reallocation of the allocation for recovery zone
 36 facility bonds allocated to the State. The Committee shall set forth procedures for making such
 37 allocations and in the making of such allocations shall take into consideration the best interest
 38 of the State of North Carolina with regard to the economic development, school facility needs,
 39 and general prosperity of the people of North Carolina. In reallocating allocation for recovery
 40 zone facility bonds, the Committee shall follow the formula provided in section 1400U-1(a)(3)
 41 of ARRTA. The Committee shall make all elective carryforwards of the unused unified volume
 42 limitation and the annual aggregate limitation on the face amount of qualified public
 43 educational facility bonds and recovery zone facility bonds on behalf of the State.

44"

45 **SECTION 3.** G.S. 159C-3 reads as rewritten:

46 **"§ 159C-3. Definitions.**

47 The following definitions apply in this Chapter:

48 ...

49 (3a) Code. – The Internal Revenue Code of 1986, as amended.

50 ...

1 (6b) Industrial project. – Any industrial or manufacturing factory, mill, assembly
2 plant, or fabricating plant; freight terminal; industrial research, development,
3 or laboratory facility; industrial processing facility; facility used in the
4 manufacturing or production of tangible personal property; facility used in
5 the creation or production of intangible property (as described in section
6 197(d)(1)(C)(iii) of the Code); a facility that qualifies as "recovery zone
7 property" under section 1400U-3 of the American Recovery and
8 Reinvestment Tax Act of 2009; or distribution facility for industrial or
9 manufactured products.

10 "

11 **SECTION 4.** This act is effective when it becomes law.