

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015

H.B. 128
Mar 3, 2015
HOUSE PRINCIPAL CLERK

H

D

HOUSE DRH20044-MC-30A (02/08)

Short Title: Referendum for Certain Local Debt. (Public)

Sponsors: Representative Speciale.

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO REQUIRE A REFERENDUM ON CERTIFICATES OF PARTICIPATION
3 AND SIMILAR DEBT.

4 The General Assembly of North Carolina enacts:

5 SECTION 1. G.S. 160A-20 reads as rewritten:
6 "§ 160A-20. Security interests.

7 ...

8 (i) Voter Approval Requirement. –

9 (1) The governing board of a unit that intends to enter into a contract pursuant to
10 subsection (a) or (b) of this section must adopt a resolution stating its intent
11 at least 10 days before executing the contract. The resolution must state the
12 maximum amount of the proposed contract. Contingent obligations shall be
13 included in calculating the value of the contract. Several contracts that are all
14 related to the same undertaking shall be deemed a single contract for
15 purposes of this subsection. The resolution also must describe the basic
16 purpose of the contract and state that the contract is a form of debt financing.

17 (2) If Local Government Commission approval of the contract is required by
18 subsection (e) of this section, a petition demanding that a contract entered
19 into under subsection (a) or (b) of this section be submitted to the voters may
20 be filed with the clerk to the board any time prior to the Local Government
21 Commission's entry of the order approving the application pursuant to
22 G.S. 159-152. If Local Government Commission approval of the contract is
23 not required by subsection (e) of this section, the petition must be filed with
24 the clerk within 10 days of the governing board's adoption of the resolution
25 stating its intent to enter into the contract pursuant to subsection (a) or (b) of
26 this section. The petition shall be in writing and shall be signed by a number
27 of voters of the issuing unit equal to not less than five percent (5%) of the
28 total number of voters registered to vote in elections of the issuing unit
29 according to the most recent figures certified by the State Board of
30 Elections. The residence address of each signer shall be written after the
31 signature. The clerk shall investigate the sufficiency of the petition and
32 present it to the governing board, with a certificate stating the results of the
33 investigation. The governing board, after hearing any taxpayer who may
34 request to be heard, shall thereupon determine the sufficiency of the petition,
35 and its determination shall be conclusive.



- 1 (3) If a contract requires approval of the voters, the affirmative vote or a
2 majority of those who vote thereon shall be required.
- 3 (4) The date of a voter referendum on the contract shall be fixed by the
4 governing board, but shall not be more than one year after adoption of the
5 resolution indicating the board's intent to enter into a contract pursuant to
6 subsection (a) or (b) of this section, only on a date permitted by
7 G.S. 163-287. The clerk shall mail or deliver a certified copy of the
8 resolution calling a special referendum to the board of elections that is to
9 conduct it within three days after the resolution is adopted, but failure to
10 observe this requirement shall not in any manner affect the validity of the
11 referendum or contract entered into pursuant thereto. The referendum shall
12 be conducted by the board of elections conducting regular elections of the
13 unit of local government.
- 14 (5) The clerk shall publish a notice of the referendum at least twice. The first
15 publication shall be not less than 14 days and the second publication not less
16 than seven days before the last day on which voters may register for the
17 referendum. The notice shall state the date of the referendum, the maximum
18 amount of the proposed contract, the purpose of the contract, and a statement
19 as to the last day for registration for the referendum under the election laws
20 then in effect.
- 21 (6) The form of the question as stated on the ballot shall be in substantially the
22 following words:
23 "Shall the [name of unit of local government] be authorized to enter into a
24 contract pursuant to G.S. 160A-20(a) or (b) and incur debt in the maximum
25 amount of \$ _____ plus interest for [briefly stating the purpose] be
26 approved?
27 [] YES
28 [] NO"
- 29 (7) The board of elections shall canvass the referendum and certify the results to
30 the governing board. The governing board shall then certify and declare the
31 result of the referendum and shall publish a statement of the result once, with
32 the following statement appended:
33 "Any action or proceeding challenging the regularity or validity of this
34 referendum must be begun within 30 days after [date of publication].
35 _____
36 [Title of governing board]"
37 The statement of results shall be filed in the clerk's office and inserted in the
38 minutes of the board."

39 **SECTION 2.** G.S. 159-85 reads as rewritten:

40 **"§ 159-85. Application to Commission for approval of revenue bond issue; preliminary**
41 **conference; acceptance of ~~application~~ application; voter approval requirement.**

42 (a) Neither the State nor a municipality may issue revenue bonds under this Article
43 unless the issue is approved by the Commission. The State Treasurer or the governing board of
44 the issuing municipality or its duly authorized agent, as the case may be, shall file an
45 application for Commission approval of the issue with the secretary of the Commission. If the
46 issuing municipality is a regional public transportation authority, the application must be
47 accompanied by a resolution of the special tax board of that authority approving of the
48 application. The application shall state such facts and have attached to it such documents
49 concerning the proposed revenue bonds and the financial condition of the State or the issuing
50 municipality, as the case may be, and its utilities and enterprises as the secretary may require.
51 The Commission may prescribe the form of the application. At the time of application to the

1 Commission, the governing body shall publish a public notice of the application in a newspaper
2 of general circulation in the unit of local government.

3 ...

4 (e) A petition demanding that the revenue bond order be submitted to the voters may be
5 filed with the clerk to the board at any time before the Commission enters its order approving
6 or denying the application pursuant to G.S. 159-87. The petition shall be in writing and shall be
7 signed by a number of voters of the issuing unit equal to not less than five percent (5%) of the
8 total number of voters registered to vote in elections of the issuing unit according to the most
9 recent figures certified by the State Board of Elections. The residence address of each signer
10 shall be written after the signature. The clerk shall investigate the sufficiency of the petition and
11 present it to the governing board, with a certificate stating the results of the investigation. The
12 governing board, after hearing any taxpayer who may request to be heard, shall thereupon
13 determine the sufficiency of the petition, and its determination shall be conclusive.

14 (f) If a bond order is to take effect upon approval of the voters, the affirmative vote or a
15 majority of those who vote thereon shall be required. The date of a bond referendum shall be
16 fixed by the governing board, but shall not be more than one year after adoption of the bond
17 order, only on a date permitted by G.S. 163-287. The clerk shall mail or deliver a certified copy
18 of the resolution calling a special referendum to the board of elections that is to conduct it
19 within three days after the resolution is adopted, but failure to observe this requirement shall
20 not in any manner affect the validity of the referendum or bonds issued pursuant thereto. The
21 bond referendum shall be conducted by the board of elections conducting regular elections of
22 the unit of local government.

23 (g) The clerk shall publish a notice of the referendum at least twice. The first
24 publication shall be not less than 14 days and the second publication not less than seven days
25 before the last day on which voters may register for the referendum. The notice shall state the
26 date of the referendum, the maximum amount of the proposed bonds, the purpose of the bonds,
27 and a statement as to the last day for registration for the referendum under the election laws
28 then in effect.

29 (h) The form of the question as stated on the ballot shall be in substantially the
30 following words:

31 "Shall the order authorizing \$ _____ revenue bonds plus interest [briefly stating the
32 purpose] be approved?

33 YES

34 NO"

35 (i) The board of elections shall canvass the referendum and certify the results to the
36 governing board. The governing board shall then certify and declare the result of the
37 referendum and shall publish a statement of the result once, with the following statement
38 appended:

39 "Any action or proceeding challenging the regularity or validity of this referendum must be
40 begun within 30 days after [date of publication].

41 _____
42 [Title of governing board]"

43 The statement of results shall be filed in the clerk's office and inserted in the minutes of the
44 board."

45 **SECTION 3.** G.S. 159-104 reads as rewritten:

46 **"§ 159-104. Application to Commission for approval of project development financing**
47 **debt instrument issue; preliminary conference; acceptance of**
48 **~~application.~~application; voter approval requirement.**

49 (a) A unit of local government may not issue project development financing debt
50 instruments under this Article unless the issue is approved by the Local Government
51 Commission. The governing body of the issuing unit shall file with the secretary of the

1 Commission an application for Commission approval of the issue. At the time of application,
2 the governing body shall publish a public notice of the application in a newspaper of general
3 circulation in the unit of local government. The application shall include any statements of facts
4 and documents concerning the proposed debt instruments, development financing district, and
5 development financing plan, and the financial condition of the unit, required by the secretary.
6 The Commission may prescribe the form of the application.

7 Before accepting the application, the secretary may require the governing body or its
8 representatives to attend a preliminary conference in order to discuss informally the proposed
9 issue, district, and plan and the timing of the steps to be taken in issuing the debt instruments.
10 The development financing plan need not be adopted by the governing body at the time it files
11 the application with the secretary. However, before the Commission may enter its order
12 approving the debt instruments, the governing body must adopt the plan and make the findings
13 described in G.S. 159-105(b)(1) and (5).

14 After an application in proper form and order has been filed, and after a preliminary
15 conference if one is required, the secretary shall notify the unit in writing that the application
16 has been filed and accepted for submission to the Commission. The secretary's statement is
17 conclusive evidence that the unit has complied with this section."

18 (b) A petition demanding that the project development financing be submitted to the
19 voters may be filed with the clerk to the board at any time before the Commission enters its
20 order approving or denying the application pursuant to G.S. 159-106. The petition shall be in
21 writing and shall be signed by a number of voters of the issuing unit equal to not less than five
22 percent (5%) of the total number of voters registered to vote in elections of the issuing unit
23 according to the most recent figures certified by the State Board of Elections. The residence
24 address of each signer shall be written after the signature. The clerk shall investigate the
25 sufficiency of the petition and present it to the governing board, with a certificate stating the
26 results of the investigation. The governing board, after hearing any taxpayer who may request
27 to be heard, shall thereupon determine the sufficiency of the petition, and its determination
28 shall be conclusive.

29 (c) If a project development financing requires approval of the voters, the affirmative
30 vote or a majority of those who vote thereon shall be required. The date of a referendum shall
31 be fixed by the governing board, but shall not be more than one year after adoption of the
32 project development financing plan, only on a date permitted by G.S. 163-287. The clerk shall
33 mail or deliver a certified copy of the resolution calling a special referendum to the board of
34 elections that is to conduct it within three days after the resolution is adopted, but failure to
35 observe this requirement shall not in any manner affect the validity of the referendum or debt
36 instruments issued pursuant thereto. The referendum shall be conducted by the board of
37 elections conducting regular elections of the unit of local government.

38 (d) The clerk shall publish a notice of the referendum at least twice. The first
39 publication shall be not less than 14 days and the second publication not less than seven days
40 before the last day on which voters may register for the referendum. The notice shall state the
41 date of the referendum, the maximum amount of the proposed debt instruments, the purpose of
42 the debt instruments, and a statement as to the last day for registration for the referendum under
43 the election laws then in effect.

44 (e) The form of the question as stated on the ballot shall be in substantially the
45 following words:

46 "Shall the [unit name here] be authorized to borrow \$_____ plus instrument by issuing
47 project development financing debt instruments for [briefly state purpose]?"

48 YES

49 NO"

50 (f) The board of elections shall canvass the referendum and certify the results to the
51 governing board. The governing board shall then certify and declare the result of the

1 referendum and shall publish a statement of the result once, with the following statement
2 appended:

3 "Any action or proceeding challenging the regularity or validity of this referendum must be
4 begun within 30 days after [date of publication].

5
6 [Title of governing board]"

7 The statement of results shall be filed in the clerk's office and inserted in the minutes of the
8 board."

9 **SECTION 4.** G.S. 159I-30 reads as rewritten:

10 **"§ 159I-30. Additional powers of units of local government; issuance of special obligation**
11 **bonds and notes.**

12 ...

13 (i) Local Government Commission Approval. – No bonds or notes may be issued by a
14 unit of local government under this section unless the issuance is approved and the bonds or
15 notes are sold by the Local Government Commission as provided in this section and the
16 applicable provisions of this Chapter. The unit shall file with the Secretary of the Local
17 Government Commission an application requesting approval of the issuance of the bonds or
18 notes, which application shall contain such information and shall have attached to it such
19 documents concerning the proposed financing as the Secretary of the Local Government
20 Commission may require. The Commission may prescribe the form of the application. Before
21 the Secretary accepts the application, the Secretary may require the governing body of the unit
22 or its representatives to attend a preliminary conference, at which time the Secretary or the
23 deputies of the Secretary may informally discuss the proposed issue and the timing of the steps
24 taken in issuing the special obligation bonds or notes. At the time of application to the
25 Commission, the governing body shall publish a public notice of the application in a newspaper
26 of general circulation in the unit of local government.

27 In determining whether a proposed bond or note issue should be approved, the Local
28 Government Commission may consider, to the extent applicable as shall be determined by the
29 Local Government Commission, the criteria set forth in G.S. 159-52 and G.S. 159-86, as either
30 may be amended from time to time, as well as the effect of the proposed financing upon any
31 scheduled or proposed sale of obligations by the State or by any of its agencies or departments
32 or by any unit of local government in the State. The Local Government Commission shall
33 approve the issuance of the bonds or notes if, upon the information and evidence it receives, it
34 finds and determines that the proposed financing will satisfy such criteria and will effect the
35 purposes of this section and the applicable provisions of this Chapter. An approval of an issue
36 shall not be regarded as an approval of the legality of the issue in any respect. A decision by the
37 Local Government Commission denying an application is final.

38 Upon the filing with the Local Government Commission of a written request of the unit
39 requesting that its bonds or notes be sold, the bonds or notes may be sold by the Local
40 Government Commission in such manner, either at public or private sale, and for such price or
41 prices as the Local Government Commission shall determine to be in the best interests of the
42 unit and to effect the purposes of this section and the applicable provisions of this Chapter, if
43 the sale is approved by the unit.

44 (i) (1) A petition demanding that the special obligation bond order be submitted to
45 the voters may be filed with the clerk to the board at any time before the
46 Commission enters its order approving or denying the application pursuant
47 to G.S. 159I-30(i). The petition shall be in writing and shall be signed by a
48 number of voters of the issuing unit equal to not less than five percent (5%)
49 of the total number of voters registered to vote in elections of the issuing unit
50 according to the most recent figures certified by the State Board of
51 Elections. The residence address of each signer shall be written after the

signature. The clerk shall investigate the sufficiency of the petition and present it to the governing board, with a certificate stating the results of the investigation. The governing board, after hearing any taxpayer who may request to be heard, shall thereupon determine the sufficiency of the petition, and its determination shall be conclusive.

(2) If a special obligation bond order requires approval of the voters, the affirmative vote or a majority of those who vote thereon shall be required. The date of a bond referendum shall be fixed by the governing board, but shall not be more than one year after adoption of the bond order, only on a date permitted by G.S. 163-287. The clerk shall mail or deliver a certified copy of the resolution calling a special referendum to the board of elections that is to conduct it within three days after the resolution is adopted, but failure to observe this requirement shall not in any manner affect the validity of the referendum or bonds issued pursuant thereto. The bond referendum shall be conducted by the board of elections conducting regular elections of the unit of local government.

(3) The clerk shall publish a notice of the referendum at least twice. The first publication shall be not less than 14 days and the second publication not less than seven days before the last day on which voters may register for the referendum. The notice shall state the date of the referendum, the maximum amount of the proposed bonds, the purpose of the bonds, and a statement as to the last day for registration for the referendum under the election laws then in effect.

(4) The form of the question as stated on the ballot shall be in substantially the following words:
"Shall the [unit name here] be authorized to borrow \$ _____ plus instrument by issuing special obligation bonds for [briefly state purpose]?
 YES
 NO"

(5) The board of elections shall canvass the referendum and certify the results to the governing board. The governing board shall then certify and declare the result of the referendum and shall publish a statement of the result once, with the following statement appended:
"Any action or proceeding challenging the regularity or validity of this referendum must be begun within 30 days after [date of publication].

[Title of governing board]"

The statement of results shall be filed in the clerk's office and inserted in the minutes of the board.

...."

SECTION 5. G.S. 159-60 reads as rewritten:

"§ 159-60. Petition for referendum on bond issue.

A petition demanding that a bond order be submitted to the voters may be filed with the clerk within 30 days after the date of publication of the bond order as introduced. The petition shall be in writing, and shall be signed by a number of voters of the issuing unit equal to not less than ~~ten~~ five percent (10%)(5%) of the total number of voters registered to vote in elections of the issuing unit according to the most recent figures certified by the State Board of Elections. The residence address of each signer shall be written after his signature. The petition need not contain the text of the order to which it refers, and need not be all on one sheet.

The clerk shall investigate the sufficiency of the petition and present it to the governing board, with a certificate stating the results of his investigation. The governing board, after

1 hearing any taxpayer who may request to be heard, shall thereupon determine the sufficiency of
2 the petition, and its determination shall be conclusive.

3 ~~This section does not apply to bonds issued pursuant to G.S. 159-48(a)(1), (2), (3), or (5).~~"

4 **SECTION 6.** G.S. 159-148 reads as rewritten:

5 "**§ 159-148. Contracts subject to Article; ~~exceptions,exceptions;~~ voter approval**
6 **requirement.**

7 ...

8 (c) If a contract, agreement, memorandum of understanding, and any other transaction
9 having the force and effect of a contract is subject to Commission approval, at the time of
10 application to the Commission, the governing body of the unit of local government shall
11 publish a public notice of the application in a newspaper of general circulation in the unit of
12 local government.

13 (d) (1) A petition demanding that the contract, agreement, memorandum of
14 understanding, or other transaction having the force and effect of a contract
15 subject to Commission approval be submitted to the voters may be filed with
16 the clerk to the board at any time before the Commission enters its order
17 approving or denying the application pursuant to G.S. 159-152. The petition
18 shall be in writing and shall be signed by a number of voters of the issuing
19 unit equal to not less than five percent (5%) of the total number of voters
20 registered to vote in elections of the issuing unit according to the most recent
21 figures certified by the State Board of Elections. The residence address of
22 each signer shall be written after the signature. The clerk shall investigate
23 the sufficiency of the petition and present it to the governing board, with a
24 certificate stating the results of the investigation. The governing board, after
25 hearing any taxpayer who may request to be heard, shall thereupon
26 determine the sufficiency of the petition, and its determination shall be
27 conclusive.

28 (2) If a contract, agreement, memorandum of understanding, or other transaction
29 having the force and effect of a contract subject to Commission approval
30 requires approval of the voters, the affirmative vote or a majority of those
31 who vote thereon shall be required. The date of a referendum shall be fixed
32 by the governing board, but shall not be more than one year after the original
33 date of submission of the application to the Commission for approval, only
34 on a date permitted by G.S. 163-287. The clerk shall mail or deliver a
35 certified copy of the resolution calling a special referendum to the board of
36 elections that is to conduct it within three days after the resolution is
37 adopted, but failure to observe this requirement shall not in any manner
38 affect the validity of the referendum or contract, agreement, memorandum of
39 understanding, or other transaction having the force and effect of a contract
40 subject to Commission approval entered into pursuant thereto. The
41 referendum shall be conducted by the board of elections conducting regular
42 elections of the unit of local government.

43 (3) The clerk shall publish a notice of the referendum at least twice. The first
44 publication shall be not less than 14 days and the second publication not less
45 than seven days before the last day on which voters may register for the
46 referendum. The notice shall state the date of the referendum, the maximum
47 amount of the proposed contract, agreement, memorandum of
48 understanding, or other transaction having the force and effect of a contract
49 subject to Commission approval, the purpose of the contract, agreement,
50 memorandum of understanding, or other transaction having the force and
51 effect of a contract subject to Commission approval, and a statement as to

the last day for registration for the referendum under the election laws then in effect.

(4) The form of the question as stated on the ballot shall be in substantially the following words:

"Shall the [unit name here] be authorized to enter into the [contract, agreement, memorandum of understanding, or other transaction having the force and effect of a contract subject to Commission approval] in an amount to not exceed \$ _____ for [briefly describe purpose]?"

[] YES

[] NO"

(5) The board of elections shall canvass the referendum and certify the results to the governing board. The governing board shall then certify and declare the result of the referendum and shall publish a statement of the result once, with the following statement appended:

"Any action or proceeding challenging the regularity or validity of this referendum must be begun within 30 days after [date of publication].

[Title of governing board]"

The statement of results shall be filed in the clerk's office and inserted in the minutes of the board."

SECTION 7. G.S. 159-153

"§ 159-153. Approval of other financing arrangements; voter approval requirement.

...

(g) If a transaction specified in subsection (a) of this section, and undertaken by a unit of local government, is subject to Commission approval, at the time of application to the Commission, the governing body of the unit of local government, shall publish a public notice of the application in a newspaper of general circulation in the unit of local government.

(h) (1) A petition demanding that the contract, agreement, memorandum of understanding, or other transaction having the force and effect of a contract subject to Commission approval be submitted to the voters may be filed with the clerk to the board at any time before the Commission enters its order approving or denying the application pursuant to this section. The petition shall be in writing and shall be signed by a number of voters of the issuing unit equal to not less than five percent (5%) of the total number of voters registered to vote in elections of the issuing unit according to the most recent figures certified by the State Board of Elections. The residence address of each signer shall be written after the signature. The clerk shall investigate the sufficiency of the petition and present it to the governing board, with a certificate stating the results of the investigation. The governing board, after hearing any taxpayer who may request to be heard, shall thereupon determine the sufficiency of the petition, and its determination shall be conclusive.

(2) If a transaction specified in subsection (a) of this section, and undertaken by a unit of local government, requires approval of the voters, the affirmative vote or a majority of those who vote thereon shall be required. The date of a referendum shall be fixed by the governing board, but shall not be more than one year after the original date of submission of the application to the Commission for approval, only on a date permitted by G.S. 163-287. The clerk shall mail or deliver a certified copy of the resolution calling a special referendum to the board of elections that is to conduct it within three days

after the resolution is adopted, but failure to observe this requirement shall not in any manner affect the validity of the referendum or the transaction undertaken pursuant thereto. The referendum shall be conducted by the board of elections conducting regular elections of the unit of local government.

(3) The clerk shall publish a notice of the referendum at least twice. The first publication shall be not less than 14 days and the second publication not less than seven days before the last day on which voters may register for the referendum. The notice shall state the date of the referendum, the maximum amount of the proposed transaction, the purpose of the transaction, and a statement as to the last day for registration for the referendum under the election laws then in effect.

(4) The form of the question as stated on the ballot shall be in substantially the following words:
"Shall the [unit name here] be authorized to enter into the [transaction] in an amount not to exceed \$ _____ for [briefly describe purpose]?"
[] YES
[] NO"

(5) The board of elections shall canvass the referendum and certify the results to the governing board. The governing board shall then certify and declare the result of the referendum and shall publish a statement of the result once, with the following statement appended:

"Any action or proceeding challenging the regularity or validity of this referendum must be begun within 30 days after [date of publication].

[Title of governing board]"

The statement of results shall be filed in the clerk's office and inserted in the minutes of the board."

SECTION 8. This act is effective when it becomes law.