

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2021

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SENATE BILL 265  
PROPOSED COMMITTEE SUBSTITUTE S265-PCS15292-RBf-7

Short Title: Bond Information Transparency.

(Public)

Sponsors:

Referred to:

March 15, 2021

1 A BILL TO BE ENTITLED  
2 AN ACT TO INCREASE THE TRANSPARENCY OF BOND REFERENDA BY REQUIRING  
3 ADDITIONAL DISCLOSURES BY UNITS OF LOCAL GOVERNMENT AND TO  
4 MAKE LOCAL FINANCE RELATED CHANGES RECOMMENDED BY THE STATE  
5 TREASURER.

6 The General Assembly of North Carolina enacts:

7 **SECTION 1.** G.S. 159-52(b) reads as rewritten:

8 "(b) The Commission shall approve the application if, upon the information and evidence  
9 it receives, it finds and determines:

- 10 (1) That the proposed bond issue is necessary or expedient.  
11 (2) That the amount proposed is adequate and not excessive for the proposed  
12 purpose of the issue.  
13 (3) That the unit's debt management procedures and policies are good, or that  
14 reasonable assurances have been given that its debt will henceforth be  
15 managed in strict compliance with law.  
16 (4) That the increase in taxes, if any, necessary to service the proposed debt will  
17 not be excessive.  
18 (5) That the proposed bonds can be marketed at reasonable rates of interest.  
19 (6) That the assumptions used by the finance officer of the unit in preparing the  
20 statement of estimated interest filed with the clerk pursuant to  
21 G.S. 159-55.1(a) are reasonable.

22 If the Commission tentatively decides to deny the application because it is of the opinion that  
23 any one or more of these conclusions cannot be supported from the information presented to it,  
24 it shall so notify the unit filing the application. If the unit so requests, the Commission shall hold  
25 a public hearing on the application at which time any interested persons shall be heard. The  
26 Commission may appoint a hearing officer to conduct the hearing, and to present a summary of  
27 the testimony and his recommendations for the Commission's consideration."

28 **SECTION 2.(a)** G.S. 159-55(d) is repealed.

29 **SECTION 2.(b)** The section heading of G.S. 159-55 reads as rewritten:

30 "**§ 159-55. Sworn statement of debt; debt limitation; statement of estimated interest on the**  
31 **bonds limitation.**"

32 **SECTION 2.(c)** Part 2 of Article 4 of Chapter 159 of the General Statutes is amended  
33 by adding a new section to read:

34 "**§ 159-55.1. Statement of disclosures necessary for bond authorization.**

35 (a) After the bond order has been introduced and before the public hearing on it, the  
36 finance officer shall file with the clerk of the board a statement of disclosure stating the following:



\* S 2 6 5 - P C S 1 5 2 9 2 - R B F - 7 \*

(1) Interest. – An estimate of the total amount of interest that will be paid on the bonds over the expected term of the bonds, if issued, and a summary of the assumptions upon which the estimate is based. The Commission must approve the assumptions upon which the estimate is based as provided in G.S. 159-52(b).

(2) Property taxes. – An estimate of the increase in property tax rate, if any, necessary to service the proposed debt. If no increase in property tax rate is estimated to be needed, a brief statement to the effect that the existing projected revenues are expected to be sufficient to pay the principal and interest of the bonds. The estimated increase in property tax rate shall be stated as the rate of increase per one hundred dollars (\$100.00) of assessed valuation.

(3) Two-thirds bonds. – The amount of two-thirds bonds capacity the unit has available for the current fiscal year, if any.

(b) The statement of disclosure shall include a statement to the effect that the information contained in it is preliminary and is for general informational purposes only, that there is no assurance that the assumptions upon which the disclosures are based will occur, that the occurrence of certain of the assumptions is beyond the control of the unit, and that differences between the actual circumstances at the time the bonds are issued from the assumptions included in the disclosure could result in significant differences between the disclosures made and the actual occurrences. The statement may include other qualifications as the finance officer deems appropriate. The validity of the bonds authorized by the order is not subject to challenge on the grounds that the actual occurrences when issued are different than the disclosures set forth in the statement.

(c) The statement of disclosure shall be filed with the Commission, posted online, and maintained by the clerk of the board."

**SECTION 3.** G.S. 159-56 reads as rewritten:

**"§ 159-56. Publication of bond order as introduced.**

After the introduction of the bond order, the clerk shall publish it once with the following statement appended:

"The foregoing order has been introduced and a sworn statement of debt has been filed under the Local Government Bond Act showing the appraised value of the [issuing unit] to be \$ \_\_\_\_\_ and the net debt thereof, including the proposed bonds, to be \$ \_\_\_\_\_. The finance officer of the [issuing unit] has filed a statement estimating that the total amount of interest that will be paid on the bonds over the expected term of the bonds, if issued, is \$ \_\_\_\_\_. ~~The estimate is preliminary, is for general informational purposes only, and may differ from the actual interest paid on the bonds.~~ A tax will [may] is authorized to be levied to pay the principal of and interest on the bonds if they are issued. The finance officer has filed a statement estimating that [a property tax increase of \$ \_\_\_\_\_ per \$100.00 of assessed valuation] [no property tax increase] will be required to provide sufficient funds to pay the principal and interest on the proposed bonds. These estimates are preliminary, are for general informational purposes only, and may differ from the actual interest paid on the bonds or the actual property tax increases required to provide sufficient funds to pay the principal and interest on the bonds. Anyone who wishes to be heard on the questions of the validity of the bond order and the advisability of issuing the bonds may appear at a public hearing or an adjournment thereof to be held at \_\_\_\_\_.

Clerk"

The publication may include a summary of the assumptions upon which the estimate estimates of the total amount of interest that will be paid on the bonds over the expected term of the ~~bonds,~~ bonds if issued, is or the amount of any property tax increase required to provide funds to pay principal and interest on the bonds if issued, are based, and may further state that there is

1 no assurance that the circumstances included in the assumptions will occur, that the occurrence  
 2 of certain of the assumptions is beyond the control of the issuing unit, and that differences  
 3 between the actual circumstances at the time the bonds are issued from the assumptions included  
 4 in the ~~estimate-estimates~~ could result in significant differences between the estimated interest and  
 5 the actual interest on the ~~bonds- bonds~~ or the actual property tax increases required to provide  
 6 sufficient funds to pay the principal and interest on the bonds. The statement may include  
 7 additional qualifications as the unit deems appropriate. The validity of bonds authorized to be  
 8 issued pursuant to this act is not subject to challenge on the grounds that the actual interest cost  
 9 of the bonds when ~~issued-issued~~, or the actual property tax increases required to provide sufficient  
 10 funds to pay the principal and interest on the bonds when issued, is different than the amount set  
 11 forth in the ~~estimate-estimates~~ referenced in the publication of the bond order as introduced."

12 **SECTION 4.** G.S. 159-58 reads as rewritten:

13 "**§ 159-58. Publication of bond order as adopted.**

14 After adoption, the clerk shall publish the bond order once, with the following statement  
 15 appended:

16 "The foregoing order was adopted on the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, and is hereby  
 17 published this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_. Any action or proceeding questioning the validity  
 18 of the order must be begun within 30 days after the date of publication of this notice. The finance  
 19 officer of the [issuing unit] has filed a statement estimating that the total amount of interest that  
 20 will be paid on the bonds over the expected term of the bonds, if issued, is \$ \_\_\_\_\_. ~~The estimate~~  
 21 ~~is preliminary, is-~~ A tax is authorized to be levied to pay the principal and interest on the bonds if  
 22 they are issued. The finance officer has filed a statement estimating that [a property tax increase  
 23 of \$ \_\_\_\_\_ per \$100.00 of assessed valuation] [no property tax increase] will be required to  
 24 provide sufficient funds to pay the principal and interest on the proposed bonds. These estimates  
 25 are preliminary, are for general informational purposes only, and may differ from the actual  
 26 interest paid on the ~~bonds- bonds~~ or the actual property tax increases required to provide sufficient  
 27 funds to pay the principal and interest on the bonds.

28  
 29  
 30 Clerk"

31 The publication may include a summary of the assumptions upon which the ~~estimate~~  
 32 ~~estimates~~ of the total amount of interest that will be paid on the bonds over the expected term of  
 33 the ~~bonds- bonds~~ if issued, ~~is-~~ or the amount of any property tax increase required to provide  
 34 sufficient funds to pay the principal and interest on the bonds if issued, are based, and may further  
 35 state that there is no assurance that the circumstances included in the assumptions will occur, that  
 36 the occurrence of certain of the assumptions is beyond the control of the issuing unit, and that  
 37 differences between the actual circumstances at the time the bonds are issued from the  
 38 assumptions included in the ~~estimate-estimates~~ could result in significant differences between the  
 39 estimated interest and the actual interest on the ~~bonds- bonds~~ or the actual property tax increases  
 40 required to provide sufficient funds to pay the principal and interest on the bonds. The statement  
 41 may include such additional qualifications as the unit deems appropriate. The validity of bonds  
 42 authorized to be issued pursuant to this act is not subject to challenge on the grounds that the  
 43 actual interest cost of the bonds when ~~issued-issued~~, or the actual property tax increases required  
 44 to provide sufficient funds to pay the principal and interest on the bonds when issued, is different  
 45 than the amount set forth in the ~~estimate-estimates~~ referenced in the publication of the bond order  
 46 as adopted."

47 **SECTION 5.** Part 3 of Article 3 of Chapter 159 of the General Statutes is amended  
 48 by adding a new section to read:

49 "**§ 159-33.2. Interim event reporting.**

50 The Secretary has the authority to require a unit of local government or public authority to  
 51 report events defined by the Secretary that will or may have a material, adverse effect on the

1 financial health, operations, or internal controls of the unit of local government or public  
2 authority within 30 days after the occurrence of such events. The Commission shall adopt a policy  
3 specifying the event required under this section. Within 30 days of adopting the policy, the  
4 Secretary shall make the policy publicly available."

5 **SECTION 6.** G.S. 159-34 is amended by adding a new subsection to read:

6 "(d) The Commission may notify the State Treasurer and the Secretary of Revenue of a  
7 unit's failure to comply with the annual audit requirements if the unit has failed to file a copy of  
8 the audit report with the Secretary as required under subsection (a) of this section within 12  
9 months of the unit's fiscal year end. Upon such notification, the Secretary of Revenue shall  
10 withhold from the unit's distribution under G.S. 105-486, and from the unit's distribution under  
11 G.S. 105-501 if necessary, an amount equal to one hundred fifty percent (150%) of the cost of  
12 the required annual audit as indicated in the audit contract between the unit and its external  
13 auditor for the audit report, if such a contract has been executed, or for the most recently filed  
14 audit report if a contract has not been executed for the current year audit. The amount may be  
15 withheld in subparts based upon a schedule of withholding developed by the Commission. The  
16 total amount withheld shall be released to the unit upon the Commission's notification to the State  
17 Treasurer and the Secretary of Revenue that the required report has been filed, reviewed to ensure  
18 that the report complies with the requirements of this section, and accepted by the Secretary."

19 **SECTION 7.** G.S. 159-148 reads as rewritten:

20 **"§ 159-148. Contracts subject to Article; exceptions.**

21 (a) Except as provided in subsection (b) of this section, this Article applies to any  
22 contract, agreement, memorandum of understanding, and any other transaction having the force  
23 and effect of a contract (other than agreements made in connection with the issuance of revenue  
24 bonds, special obligation bonds issued pursuant to Article 7A of this Chapter, or of general  
25 obligation bonds additionally secured by a pledge of revenues) made or entered into by a unit of  
26 local government (as defined by G.S. 159-7(b) or, in the case of a special obligation bond, as  
27 authorized in G.S. 159-146), relating to the lease, acquisition, or construction of capital assets,  
28 which contract does all of the following:

- 29 (1) Extends for five or more years from the date of the contract, including periods  
30 that may be added to the original term through the exercise of options to renew  
31 or extend. For units included on the most recently published Unit Assistance  
32 List issued by the Department of State Treasurer, this subdivision applies to  
33 transactions that extend for three or more years from the date of the contract,  
34 including periods that may be added to the original term through the exercise  
35 of options to renew or extend.
- 36 (2) Obligates the unit to pay sums of money to another, without regard to whether  
37 the payee is a party to the contract.
- 38 (3) Obligates the unit over the full term of the contract, including periods that may  
39 be added to the original term through the exercise of options to renew or  
40 extend:
- 41 a. For baseball park districts, to at least five hundred thousand dollars  
42 (\$500,000).
- 43 b. For housing authorities, to at least five hundred thousand dollars  
44 (\$500,000) or a sum equal to two thousand dollars (\$2,000) per  
45 housing unit owned and under active management by the housing  
46 authority, whichever is less.
- 47 c. For units included on the most recently published Unit Assistance List  
48 issued by the Department of State Treasurer, to at least fifty thousand  
49 dollars (\$50,000).
- 50 d. For other units, to at least five hundred thousand dollars (\$500,000) or  
51 a sum equal to one-tenth of one percent (1/10 of 1%) of the assessed

1 value of property subject to taxation by the contracting unit, whichever  
2 is less.

3 (4) Obligates the unit, expressly or by implication, to exercise its power to levy  
4 taxes either to make payments falling due under the contract, or to pay any  
5 judgment entered against the unit as a result of the unit's breach of the contract.

6 Contingent obligation shall be included in calculating the value of the contract. Several  
7 contracts that are all related to the same undertaking shall be deemed a single contract for the  
8 purposes of this Article. When several contracts are considered as a single contract, the term shall  
9 be that of the contract having the longest term, and the sums to fall due shall be the total of all  
10 sums to fall due under all single contracts in the group. No contract agreement shall be divided  
11 for the purpose of, or that results in, evading the requirements of this Article.

12 (b) This Article shall not apply to:

13 (1) Contracts between a unit of local government and the State of North Carolina  
14 or the United States of America (or any agency of either) entered into as a  
15 condition to the making of grants or loans to the unit of local government.

16 (2) Contracts for the purchase, lease, or lease with option to purchase of ~~motor~~  
17 ~~vehicles or~~ voting machines.

18 (3) Repealed by Session Laws 2020-3, s. 4.30(g), effective retroactively to July  
19 1, 2019.

20 (4) Contracts for the purchase, lease, or lease with option to purchase of motor  
21 vehicles. This exemption shall not apply to units included on the most recently  
22 published Unit Assistance List issued by the Department of State Treasurer  
23 where the contract amount equals or exceeds fifty thousand dollars  
24 (\$50,000)."

25 **SECTION 8.** This act is effective when it becomes law and applies to bonds issued  
26 under bond orders introduced on or after that date and to contracts entered into on or after that  
27 date.