

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017

SESSION LAW 2018-16
SENATE BILL 758

AN ACT TO ENACT THE BUILD NC BOND ACT OF 2018.

The General Assembly of North Carolina enacts:

SECTION 1. Short Title. – This act shall be known as the "Build NC Bond Act of 2018."

SECTION 2. Legislative Intent. – The intent of the Build NC Bond Act of 2018 is to maintain the integrity of the Strategic Transportation Investments Act (STI). Toward this end and consistent with STI:

- (1) The bond proceeds shall not be treated as revenue.
- (2) Debt service is subject to the distribution formula in G.S. 136-189.11.
- (3) Funds distributed under the Build NC Bond Act of 2018 to be used for the Regional Impact Projects tier shall be allocated within two percent (2%) by population of Distribution Regions based on the most recent estimates certified by the Office of State Budget and Management and used for Regional Impact Projects pursuant to the criteria in G.S. 136-189.11(d)(2)a.
- (4) Funds distributed under the Build NC Bond Act of 2018 to be used for the Division Need Projects tier shall be allocated within two percent (2%) of an equal share to each of the Department divisions, as defined in G.S. 136-14.1, and used for Division Need Projects pursuant to the criteria in G.S. 136-189.11(d)(3)a.
- (5) The formula variance in G.S. 136-189.11(e) shall only apply to the debt service.
- (6) Nothing in the Build NC Bond Act of 2018 prevents the issuance of other bonds or special indebtedness for highway or transportation purposes under Article 9 of Chapter 142 of the General Statutes.

SECTION 3. G.S. 142-82 reads as rewritten:

"§ 142-82. Definitions.

The following definitions apply in this Article:

- ...
- (2a) Build NC Bonds. – Special indebtedness issued to finance Build NC Projects, with the Build NC Net Proceeds of such special indebtedness used in accordance with both of the following requirements, measured in the aggregate for all issues:
- a. Within two percent (2%) of fifty percent (50%) of the Build NC Net Proceeds during such period used for Division Need Projects in accordance with the requirements of Article 14B of Chapter 136 of the General Statutes.
 - b. The remainder of the Build NC Net Proceeds during such period used for Regional Impact Projects in accordance with the requirements of Article 14B of Chapter 136 of the General Statutes.



(2b) Build NC Net Proceeds. – The proceeds of an issue of Build NC Bonds net of deposits for the costs described in sub-subdivisions d., e., and f. of subdivision (6) of this section.

(2c) Build NC Project. – A capital facility identified and selected for financing with Build NC Bonds under this Article by the process set forth in Article 14B of Chapter 136 of the General Statutes.

...."

SECTION 4. Article 9 of Chapter 142 of the General Statutes is amended by adding a new section to read:

"§ 142-97. Additional provisions with respect to Build NC Bonds.

The following requirements and limitations apply to the issuance and sale of Build NC Bonds:

- (1) Subject to appropriation by the General Assembly, funds from the Highway Trust Fund shall be the source for repayment of special indebtedness resulting from the sale of Build NC Bonds.
- (2) The State Treasurer shall not issue any Build NC Bonds unless (i) the State Treasurer recommends the issuance of the Build NC Bonds and (ii) the State Treasurer has made a determination that all of the following requirements have been or shall be met:
 - a. The Department of Transportation's average month-end cash balance for the first three months in the calendar year prior to the date of determination is equal to or less than one billion dollars (\$1,000,000,000).
 - b. The total amount of Build NC Bonds outstanding after such issuance will not cause the recommended transportation debt target established by the Debt Affordability Advisory Committee in accordance with G.S. 142-101 to be exceeded.
 - c. At least six months prior to the expected date of the Build NC Bond issuance, the Department of Transportation:
 1. Consulted with the State Treasurer about the proposed Build NC Bond issuance.
 2. Consulted with the Joint Legislative Transportation Oversight Committee and the Joint Legislative Commission on Governmental Operations to provide details of the proposed issuance, including (i) the total amount of the Build NC Bonds that will be issued, (ii) the estimated amount of the debt service payments, and (iii) the estimated amount of debt capacity that would be remaining after the issuance.
- (3) Except as otherwise provided in subdivision (7) of this section, the total amount of special indebtedness from the issuance of Build NC Bonds shall not exceed three billion dollars (\$3,000,000,000).
- (4) Except as otherwise provided in subdivision (7) of this section, each individual issuance of Build NC Bonds is limited to no more than three hundred million dollars (\$300,000,000) in each fiscal year.
- (5) The Department of Transportation may not use the proceeds realized from the sale of Build NC Bonds for a nonhighway project or a project utilizing tolling pursuant to the authority set forth in subdivision (39) or (39a) of G.S. 136-18.
- (6) For purposes of satisfying the requirements of G.S. 142-15.17, Build NC Projects constitute projects as to which the General Assembly has enacted legislation expressly approving the use of a State-supported financing arrangement.

- (7) The restrictions set forth in sub-subdivision a. of subdivision (2) of this section and subdivisions (3) and (4) of this section do not apply to Build NC Bonds that are refunding bonds meeting the requirements set forth in G.S. 142-29.5.
- (8) The provisions of G.S. 142-83 do not apply to Build NC Bonds, nor shall Build NC Bonds be counted for the purposes of that section in limiting the issuance of other debt.
- (9) The provisions of subsection (e) of G.S. 142-84 do not apply to Build NC Bonds."

SECTION 5. G.S. 142-89(a) reads as rewritten:

"(a) Terms and Conditions. – Bonds or notes may bear any dates; may be serial or term bonds or notes, or any combination of these; may mature in any amounts and at any times, not exceeding 15 years from their dates for Build NC Bonds and 40 years from their ~~dates;~~dates for all other bonds and notes; may be payable at any places, either within or without the United States, in any coin or currency of the United States that at the time of payment is legal tender for payment of public and private debts; may bear interest at any rates, which may vary from time to time; and may be made redeemable before maturity, at the option of the State or otherwise as may be provided by the State, at any prices, including a price greater than the face amount of the bonds or notes, and under any terms and conditions, all as may be determined by the State Treasurer, by and with the consent of the Council of State."

SECTION 6. The State Treasurer, in consultation with the Department of Transportation, shall develop and implement a debt management policy to guide the Department's practices in regards to issuing Build NC Bonds, as defined in G.S. 142-82(2a), as enacted by Section 3 of this act. By July 1, 2019, the State Treasurer shall submit a report to the Joint Legislative Transportation Oversight Committee detailing the debt management plan developed in accordance with this section.

SECTION 7. This act becomes effective January 1, 2019, and expires December 31, 2028.

In the General Assembly read three times and ratified this the 13th day of June, 2018.

s/ Philip E. Berger
President Pro Tempore of the Senate

s/ Tim Moore
Speaker of the House of Representatives

s/ Roy Cooper
Governor

Approved 2:10 p.m. this 20th day of June, 2018