



NORTH CAROLINA
DEPARTMENT OF STATE TREASURER
STATE AND LOCAL GOVERNMENT FINANCE DIVISION
AND THE LOCAL GOVERNMENT COMMISSION

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Memorandum 2010-6

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TO: Officials of Local Governments and Public
Authorities and Their Independent Auditors

FROM: Tim Romocki, Director
Debt Management Section

SUBJECT: Provisions of Senate Bill 754 Allowing State and Local Governments to Use
New Bond Programs Authorized by the American Recovery and Reinvestment
Tax Act of 2009 in North Carolina

This memorandum provides information on the provisions of Senate Bill 754 adopted by the N. C. General Assembly on June 22, 2009. The bill allows the State and local governments and authorities in N. C. to use the new bonds programs authorized by the American Recovery and Reinvestment Tax Act of 2009 (ARRTA) for the issuance of debt in N. C. under the existing State bond statutes. For bonds having specific allocation amounts, the bill also assigns responsibility for certain allocations and reallocations of these bonds to State agencies as discussed below.

**Allocations for Qualified Zone Academy Bonds (QZABs) and Qualified School
Construction Bonds (QSCBs)**

ARRTA expanded the existing QZAB program and created a new type of bond called a "Qualified School Construction Bond." Both of these bonds are tax-credit based instruments, where the bondholder receives a federal tax credit from ownership of the bond.

Senate Bill 754 amends Article 34B of Chapter 115C (489.5 and 489.6) by assigning responsibility for implementation of the QZAB and QSCB bond programs, consistent with federal regulations, to the N. C. State Board of Education, with administrative implementation through the N. C. Dept. of Public Instruction (DPI). Shortly after passage of the bill, DPI issued a memorandum to all school and county boards in North Carolina that provides information on the federal allocations made to large school units and to each county for both of these bond programs, along with information on purposes for which these bonds can be used, and an application to DPI to use an allocation of the bonds. Under the provisions of this bill, if an individual school unit or a county elects not to use and/or waives its allocation for either of these programs, DPI will be responsible for reallocating the bonds under guidelines established by DPI. We recommend contacting DPI with any questions about their application for use of these bonds, and for any details concerning implementation of either the QZAB or QSCB bond programs.

Once an application for these bonds has been approved by DPI, the standard procedures and requirements for making an application to the Local Government Commission for the approval and issuance of bonds would apply in the same manner as issuing any other bond. To date, we are aware of only a few bond issues nationally that have been issued as QSCB bonds.

Allocations for Recovery Zone Economic Development Bonds (RZEDs), Recovery Zone Facility Bonds (RZFBs), and Qualified Energy Conservation Bonds (QECBs)

ARRTA created two new types of bonds, designated a “Recovery Zone Economic Development Bond” and a “Recovery Zone Facility Bond.” RZEDs are bonds issued to finance governmental property, while RZFBs for property to be used by private parties. Memorandum #1131 issued by us on June 30, 2009 provided additional detailed information on the purposes for which RZEDs and RZFBs authorized by ARRTA can be issued. Please refer to that memorandum for details on these types of bonds. As noted in the previous memorandum, the ARRTA legislation provides the formula for allocation of these bonds to the states based on declines in employment in 2008 (N.C. allocations were attached), and authorizes states to establish a process and procedure for reallocating back to the state any individual city or county allocations that would not be used. Senate Bill 754 amends G. S. 143 (433.6 through 433.9) to assign responsibility for implementation of the reallocation process for several types of bonds to the N. C. Federal Tax Reform Committee established in Article 51B of Chapter 143. However, that Committee has not yet completed guidelines and regulations concerning the reallocations.

Senate Bill 754 also amends G. S. 159C-3 to conform the definition of industrial project to the broader definition contained in an amendment to the Internal Revenue Code of 1986. The amendment expands the definition of an industrial project to include facilities used in the manufacturing or creation of intangible personal property as described in section 197(d) (1) (c) (iii) of the Code, and redefines a special purpose project to include any facility that qualifies as recovery zone property in connection with the issuance of recovery zone facility bonds authorized under ARRTA. Thus, in addition to the powers that local governments may have to issue RZFBs, local industrial revenue bond authorities may also issue such bonds.

ARRTA expanded the program for Qualified Energy Conservation Bonds (QECBs), which are another tax credit based bond. Allocations for QECBs were made by the U. S. Treasury to large cities and counties and to states based on population. Senate Bill 754 also amends G. S. 143 to assign responsibility for any waiver and reallocation of QECBs to the Tax Reform Committee based on guidelines provided in section 54D of the Internal Revenue Code of 1986. The Committee has not yet completed and issued guidelines concerning these reallocations.

Amendment to State Statutes Regarding Negotiated Bonds

Senate Bill 754 amended the provisions of existing State law specifying the types of bonds that may be sold at private sale. The bill amends G. S. 159-123 (b) to add the following bonds that may be sold at private sale:

- Any bonds that result in a tax credit to the owners pursuant to the provisions of federal income tax laws, if the Local Government Commission determines that a private sale is in the best interest of the issuing unit.
- General Obligation bonds issued pursuant to the Local Government Bond Act that have been rated by a nationally recognized credit rating agency at a credit rating below “AA” (or comparable category if stated differently), or that are unrated and that are not described in sections (1) through (7) of G. S. 159-123(b) and that are sold prior to December 31, 2010.
- Bonds that are part of an issue in which the interest payments on some or all of the bonds is intended to be subsidized by payments from the federal government pursuant to the

provisions of the federal tax laws, if the Local Government Commission determines that a private sale is in the best interest of the issuing unit.

We will continue to notify our local units as additional information concerning any of these bonds becomes available. Our staff is available to provide additional information to units or authorities who may have any interest in or the need for any of these types of financings or who may have questions regarding these bonds. For more information related to debt issues, please contact Jim Baker at (919) 807-2370 or jim.baker@nctreasurer.com or Tim Romocki at (919) 807-2360 or tim.romocki@nctreasurer.com.