

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005**

**SESSION LAW 2005-403
HOUSE BILL 254**

AN ACT TO AUTHORIZE THE STATE TREASURER TO ISSUE "GARVEE" GRANT ANTICIPATION REVENUE VEHICLE BONDS ON BEHALF OF THE DEPARTMENT OF TRANSPORTATION, TO REQUIRE "GARVEE" FUNDS TO BE DISTRIBUTED IN ACCORDANCE WITH THE EQUITY DISTRIBUTION FORMULA, AND TO DIRECT THE SECRETARY OF THE DEPARTMENT OF TRANSPORTATION AND THE STATE TREASURER TO DEVELOP AN IMPLEMENTATION PLAN FOR ISSUANCE OF THE BONDS, AS RECOMMENDED BY THE JOINT LEGISLATIVE TRANSPORTATION OVERSIGHT COMMITTEE, AND TO CLARIFY THE DEFINITION OF GOVERNMENTAL UNIT FOR PURPOSES OF INTEREST RATE SWAP AGREEMENTS.

The General Assembly of North Carolina enacts:

SECTION 1. The Secretary of the Department of Transportation and the State Treasurer shall jointly form a committee to develop a plan to implement the provisions of this act. The plan shall address all financial, legal, and practical issues involved in issuing "GARVEE" bonds. The plan shall be submitted to the Board of Transportation for review and comment. Following review of the plan by the Board, the two Departments shall jointly submit their implementation plan to the cochairs of the Transportation Appropriations Subcommittee and the cochairs of the Joint Legislative Transportation Oversight Committee by December 1, 2005.

SECTION 2. G.S. 136-18 is amended by adding a new subdivision to read:

"(12b) To issue "GARVEE" bonds (Grant Anticipation Revenue Vehicles) or other eligible debt-financing instruments to finance federal-aid highway projects using federal funds to pay a portion of principal, interest, and related bond issuance costs, as authorized by 23 U.S.C. § 122, as amended (the National Highway System Designation Act of 1995, Pub. L. 104-59). These bonds shall be issued by the State Treasurer on behalf of the Department and shall be issued pursuant to an order adopted by the Council of State under G.S. 159-88. The State Treasurer shall develop and adopt appropriate debt instruments, consistent with the terms of the State and Local Government Revenue Bond Act, Article 5 of Chapter 159 of the General Statutes, for use under this subdivision. Prior to issuance of any "GARVEE" or other eligible debt instrument using federal funds to pay a portion of principal, interest, and related bond issuance costs, the State Treasurer

shall determine (i) that the total outstanding principal of such debt does not exceed the total amount of federal transportation funds authorized to the State in the prior federal fiscal year; or (ii) that the maximum annual principal and interest of such debt does not exceed fifteen percent (15%) of the expected average annual federal revenue shown for the seven-year period in the most recently adopted Transportation Improvement Program. Notes issued under the provisions of this subdivision may not be deemed to constitute a debt or liability of the State or of any political subdivision thereof, or a pledge of the full faith and credit of the State or of any political subdivision thereof, but shall be payable solely from the funds and revenues pledged therefor. All the notes shall contain on their face a statement to the effect that the State of North Carolina shall not be obligated to pay the principal or the interest on the notes, except from the federal transportation fund revenues as shall be provided by the documents governing the revenue note issuance, and that neither the faith and credit nor the taxing power of the State of North Carolina or of any of its political subdivisions is pledged to the payment of the principal or interest on the notes. The issuance of notes under this Part shall not directly or indirectly or contingently obligate the State or any of its political subdivisions to levy or to pledge any form of taxation whatever or to make any appropriation for their payment."

SECTION 3. G.S. 136-17.2A is amended by adding a new subsection to read:

"(i) All funds derived from "GARVEE" bonds issued pursuant to G.S. 136-18(12b) shall be distributed in accordance with this section."

SECTION 4. G.S. 159-193(1) reads as rewritten:

"§ 159-193. Definitions.

The following definitions apply in this Article:

- (1) Governmental unit. – Any of the following:
 - a. A unit of local government as defined in G.S. 159-44.
 - b. A municipality as defined in G.S. 159-81.
 - c. A joint agency as defined in G.S. 159B-3.
 - d. Any department, agency, board, commission, or authority of the State that is authorized by law to issue bonds.
 - e. The State Treasurer ~~when participating in the issuance or incurrence~~ in connection with the issuance, incurrence, carrying, or securing of obligations for or on behalf of the State pursuant to an act of the General Assembly.

..."

SECTION 5. Section 2 of this act becomes effective February 1, 2006. The remainder of this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 23rd day of August, 2005.

s/ Beverly E. Perdue
President of the Senate

s/ James B. Black
Speaker of the House of Representatives

s/ Michael F. Easley
Governor

Approved 11:14 a.m. this 20th day of September, 2005