

GENERAL ASSEMBLY OF NORTH CAROLINA
1989 SESSION

CHAPTER 735
SENATE BILL 768

AN ACT TO AUTHORIZE REFUNDING BONDS TO PAY INTEREST ON
OUTSTANDING BONDS.

The General Assembly of North Carolina enacts:

Section 1. The General Assembly finds and determines as hereinafter set forth in this section.

Joint agencies have issued bonds to finance base-load electric generating projects under Chapter 159B. When the bonds were issued, debt service structures were established on the basis of then existing factors. These factors have changed significantly since the debt service structures were established. Adjustment of these debt services schedules would permit the joint agencies to respond to these changed circumstances.

Adjustment of the joint agencies' debt service schedules would permit debt service to more closely match the expected economic lives of the projects in a manner that is consistent with the prudent utility practice of recovering capital costs so that ratepayers bear debt service costs in proportion to the benefits they can expect to receive, and would permit the joint agencies to structure their electric rates in a manner similar to what is now common for private utilities. Utility regulatory commissions have adopted plans providing for the phase-in of recovery of capital costs of capital-intensive generating projects, thus deferring recovery of these costs in rates.

Adjustments in debt service schedules would also permit the joint agencies to extend the utilization of reserves providing enhanced flexibility to the joint agencies in managing their fiscal affairs in a prudent manner.

It is necessary and desirable to amend Chapter 159B to permit existing modification of debt service schedules to reflect these circumstances, but only if the municipality or joint agency can adequately service its debt and otherwise is in compliance with the provisions of Chapter 159B.

The circumstances affecting joint agencies are not of broad application, and accordingly the provisions of this act affect only Chapter 159B and grant new authority only for the period through June 30, 1992.

Sec. 2. G.S. 159B-25 reads as rewritten:

"§ 159B-25. Refunding bonds.

(a) A municipality or joint agency is hereby authorized to provide by resolution for the issuance of refunding bonds of the municipality or joint agency for the purpose of refunding any bonds then outstanding which shall have been issued under the provisions of this Chapter, including the payment of any redemption premium thereon

and any interest accrued or to accrue to the date of redemption of such bonds. ~~The issuance of such bonds, the maturities and other details thereof, the rights of the holders thereof, and the rights, duties and obligations of the municipality or joint agency in respect to the same shall be governed by the provisions of this Chapter which relate to the issuance of bonds, insofar as such provisions may be appropriate thereof.~~

(b) In addition to any refunding bonds that may be issued pursuant to subsection (a), a municipality or joint agency is hereby authorized to provide by resolution for the issuance of refunding bonds for the purpose of providing for the payment of any interest accrued or to accrue on any bonds which shall have been issued by the joint agency under the provisions of the Chapter; provided, however, that the refunding bonds are issued on or prior to June 30, 1992, and the latest maturity of the refunding bonds issued for a project is no later than the latest maturity of any other bonds issued by the municipality or joint agency, as the case may be, then outstanding for the same project; and provided further that the Local Government Commission shall conduct an evidentiary hearing and upon the evidence presented find and determine that:

- (1) The municipality's or the joint agency's debt will be managed in strict compliance with law;
- (2) The requirements of this Chapter with respect to the issuance of its bond and the details thereof and security therefor have been and will be satisfied;
- (3) The estimated revenues of the project or the revenues of the municipality's electric system, as the case may be, will be sufficient to service all bonds to be outstanding after the issuance of the refunding bonds;
- (4) The application of the proceeds of the refunding bonds will result in the deferral of recovery in rates of a portion of the capital costs of the project for a reasonable period of time;
- (5) All capital costs of the project will be recovered over a period ending, and all bonds issued for the project will mature, no later than the end of the then estimated useful economic life of the project;
- (6) The issuance of the bonds is in the best interest of the municipality's or joint agency's electricity customers; and
- (7) The bond rating of the State and its several political subdivisions and agencies allowed to issue bonds should not be adversely affected.

(c) The issuance of such bonds, the maturities and other details thereof, the rights of the holders thereof, and the rights, duties and obligations of the municipality or joint agency in respect to the same shall be governed by the provisions of this Chapter which relate to the issuance of bonds, insofar as such provisions may be appropriate thereof."

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified this the 7th day of August, 1989.