SENATE BILL 758:
Build NC Bond Act of 2018.

2017-2018 General Assembly

Committee:		**Date:**	July 18, 2018
Introduced by:		**Prepared by:**	Howard Marsilio
Analysis of:	S.L. 2018-16		Staff Attorney

OVERVIEW: S.L. 2018-16, The Build NC Bond Act of 2018, authorizes the issuance of up to $3 billion in special indebtedness to create an additional funding source for Build NC Projects, which consists of Division Needs Projects and Regional Impact Projects scheduled in accordance with the Strategic Transportation Investments law in Article 14B of Chapter 136 of the General Statutes.

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

CURRENT LAW: The term "special indebtedness" covers the following forms of debt: limited obligation bonds, certificates of participation, lease-purchase revenue bonds, capital lease obligations, and installment purchase contracts. Special indebtedness may be issued without voter approval because it is generally secured by a security interest in the capital facilities that are being financed. If the State defaults on its special indebtedness repayments, no deficiency judgment may be rendered against the State, but the capital facilities that serve as security could be disposed of to generate funds to satisfy the debt. The State could choose not to appropriate funds to repay the debt, but such a decision would have negative consequences for the State's credit rating.

The State Capital Facilities Act provides the procedural and regulatory provisions needed to carry out special indebtedness. As with revenue bonds, authorization to use special indebtedness must be given by the General Assembly through specific legislation.

BILL ANALYSIS: S.L. 2018-16 authorizes an annual issuance of up to $300 million of special indebtedness for the next 10 years to finance Build NC Projects[1]. This authorization is known as "Build NC Bonds" and the net proceeds must be used as evenly[2] as possible to finance Division Needs Projects and Regional Impact Projects, in accordance with current Strategic Transportation Investments (STI) law.[3] The State Treasurer, in consultation with the Department of Transportation, must develop and implement a debt management policy to guide the Department's practices in regards to issuing Build NC Bonds.

This act further includes the following requirements and limitations regarding the issuance of Build NC Bonds:

- The source of repayment for Build NC Bonds is the Highway Trust Fund. The Highway Trust Fund consists of three primary revenue sources: highway use tax, motor fuel excise tax, and title and registration fees.

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[1] The State Capital Facilities Financing Act is used to finance capital facilities. Although the definition of "capital facilities" mentions that it may include streets and infrastructure, the Act has not been used for transportation-related projects to date. S.L. 2018-16 does not directly change the definition of "capital facilities" within that act but it does define the term "Build NC Project" as a capital facility.

[2] The legislation provides that it must be within 2% of 50% of the bond proceeds.

[3] Article 14B of Chapter 136 of the General Statutes.

- The State Treasurer shall not issue any Build NC Bonds unless (i) the State Treasurer recommends the issuance and (ii) the State Treasurer has made a determination that all of the following requirements have been or shall be met:
    - 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).
    - The total amount of Build NC Bonds outstanding will not cause the recommended transportation debt target established by the Debt Affordability Advisory Committee to be exceeded.
    - At least 6 months prior to the expected date of a Build NC Bond issuance, the Department of Transportation has consulted with the State Treasurer, the Joint Legislative Transportation Oversight Committee, and the Joint Legislative Commission on Governmental Operations, about the total issuance, debt servicing, and post issuance debt capacity.
- The total amount of special indebtedness resulting from the sale of Build NC Bonds shall not exceed $3 billion ($3,000,000,000).
- Except as otherwise provided, each individual issuance of Build NC Bonds is limited to no more than $300 million ($300,000,000) in each fiscal year.
- The Department of Transportation may not use the Build NC Proceeds for (i) non-highway projects or (ii) projects utilizing tolling.
- The limitation set forth in G.S. 142-83 regarding bond indebtedness supported by the General Fund does not apply.
- Since the projects to be financed with Build NC Bonds are selected through the STI process, the requirement set forth in G.S. 142-84(e) that the Department of Administration make decisions about the type of capital facility and amount financed does not apply.
- Provides that the maturity date for a Build NC Bond may not exceed 15 years.

BACKGROUND: The Strategic Transportation Investments (STI) law established the Strategic Mobility Formula, which allocates funding based on data-driven scoring and local input. It is also used to develop the State Transportation Improvement Program (STIP), which identifies the transportation projects that will receive funding during a specified 10-year period.

The Strategic Mobility Formula divides projects into 3 categories:

- Statewide Mobility – receives 40% of the available funds. Project selection in this category is based 100% on data. Projects not funded in this category can be funded in the Regional Impact or Division Needs categories. Projects in this category are analyzed according to the following criteria: congestion; benefit/cost; economic competitiveness; safety; multimodal and military; and freight and military.
- Regional Impact – receives 30% of the available funds, with funding divided among the regions based on population. Project selection in this category is based 70% on data and 30% on local input. Projects not funded in this category can be funded in the Division Needs category. Projects in this category are analyzed according to the following criteria: congestion; benefit/cost; safety; accessibility/connectivity; and freight and military.

- Division Needs - receives 30% of the available funds, shared equally over DOT's 14 transportation divisions. Projects in this category are analyzed according to the following criteria: congestion, benefit/cost, safety, freight and military, and accessibility/connectivity.

EFFECTIVE DATE: The act becomes effective January 1, 2019, and expires December 31, 2028.

Cindy Avrette, Legislative Analysis Division, and Luke Gillenwater, Bill Drafting Division, substantially contributed to this summary.