



SENATE BILL 392: Superint. May Approve Charter Facility Bonds.

2019-2020 General Assembly

Committee:	Senate Rules and Operations of the Senate	Date:	April 16, 2019
Introduced by:	Sens. Ballard, Brown, Newton	Prepared by:	Jessica Sammons
Analysis of:	Second Edition		Staff Attorney

OVERVIEW: *SB 392 would authorize the Superintendent of Public Instruction to approve issuance of private activity bonds for charter school facilities after a public hearing.*

CURRENT LAW: Under the Internal Revenue Code, a qualified private activity bond is a type of tax-exempt bond that state and local governments may issue to finance certain projects that would otherwise be classified as private activities. These include nonprofit corporations carrying out charitable purposes, including education. 26 U.S.C. 145. The governmental body has authority to serve as a “conduit” issuer, but has no liability for the repayment of the debt, and only acts as an issuer so that the private activity bonds can be tax exempt. Article 2 of Chapter 159D of the General Statutes establishes the North Carolina Capital Facilities Finance Agency as an issuer in North Carolina for these types of conduit bonds. There are also governmental entities such as the Public Finance Authority in Wisconsin that issue conduit bonds for public and private entities throughout all 50 states.

The Internal Revenue Code, 26 U.S.C. 147(f), requires that qualified private activity bonds receive public approval by both the governmental entity issuing the bonds (issuer approval) and a governmental entity having jurisdiction over the area in which the bond-financed facility is to be located (host approval). Public approval may be satisfied by approval of an applicable elected representative of the approving government unit following a public hearing for which there was reasonable public notice, or by a voter referendum. 26 U.S.C. 147(f). An “applicable elected official” includes an official elected by the voters of the governmental unit and authorized by State law to provide such approval. 26 U.S.C. 147(f)(2)(E)(i)(II).

BILL ANALYSIS: SB 392 would designate the Superintendent of Public Instruction as an applicable elected representative under the Internal Revenue Code who may approve issuance of a private activity bond to finance a charter school facility, following a public hearing conducted in accordance with the Internal Revenue Code and applicable State and federal laws and regulations.

EFFECTIVE DATE: SB 392 would become effective when it becomes law.

**Kara McCraw, counsel to Senate Education/Higher Education, substantially contributed to this summary.*

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