



SENATE BILL 99: Bond Referendum Transparency.

2023-2024 General Assembly

Committee:	Senate Rules and Operations of the Senate	Date:	June 21, 2023
Introduced by:	Sens. Johnson, Ford, Settle	Prepared by:	Erika Churchill
Analysis of:	Second Edition		Staff Attorney

OVERVIEW: *Senate Bill 99 would establish language to be included on local government bond referenda ballots, require additional postings of information about pending local government bond referenda, and require the Local Government Commission to establish a searchable database of proposed bond issuances.*

CURRENT LAW: Article 4 of Chapter 159 of the General Statutes (Local Government Bond Act) governs the ability of local governments to borrow money secured by a pledge of the taxing power. When a local government proposes to issue bonds that must be approved by a vote of the people,¹ it must publish a notice of intent to apply to the Local Government Commission (LGC) for approval. After considering an application and several statutory factors, the LGC enters an order either approving or denying the application. The LGC must approve the application to issue debt if it determines the following:

- The proposed bond issue is necessary or expedient and can be marketed at a reasonable interest rate.
- The proposed amount is adequate for the proposed purpose.
- The unit's debt management procedures are good, or that reasonable assurances have been given that its debt will be managed in strict compliance with the law.
- The increase in taxes, if necessary, to service the proposed debt will not be excessive.
- The assumptions used by the finance officer to estimate the interest are reasonable.

If a bond order is to take effect upon approval of the voters, as the debt will be secured by the pledge of the full faith and credit of the taxing authority, the approval of a majority of the voters voting is required. Generally, the bond referendum must be held on one of the following dates:

- At the same time as any other State or county general election.
- At the same time as the primary election in any even-numbered year.
- At the same time as any other election requiring all the precincts in the county to be open.
- At the same time as a municipal general election, if the special election is within the jurisdiction of the municipality only.

¹ Bonds issued for the following purposes do not require voter approval: (1) to suppress riots, insurrections, or any extraordinary breach of law and order; (2) to supply an unforeseen deficiency in the revenue when taxes actually received or collected during the fiscal year fall below collection estimates made in the annual budget ordinance; (3) to meet emergencies threatening the public health or safety, as conclusively determined in writing by the Governor; (4) to refund outstanding general obligation bonds or general obligation bond anticipation notes; and (5) bonds for certain purposes in an amount up to two-thirds of the amount by which the outstanding indebtedness of the issuing county, county water and sewer district, metro water district, or city was reduced in the preceding fiscal year.

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Some exception may be made for a bond referendum for financing of health and sanitation systems, if the governing body adopts a resolution stating the need for a different date for holding the election.

With respect to the language on the ballot for the bond referendum, the North Carolina courts have held that the language on the ballot constitutes a contract between the taxing authority and the voters. As such, the language on the ballot referendum must be incorporated into the issued bonds. G.S. 159-64 allows for a maximum of seven years to issue voter approved bonds, and that might be extended to 10 years in certain circumstances. Currently, G.S. 159-61 requires the following for the form of the question stated on the ballot:

"Shall the order authorizing \$ _____ bonds plus interest for (briefly stating the purpose) and providing that additional taxes may be levied in an amount sufficient to pay the principal of and interest on the bonds be approved?

YES

NO".

BILL ANALYSIS: The bill would require the following for the form of the question stated on the ballot, for bond referenda conducted on or after December 31, 2023:

"Additional property taxes may be levied on property located in (name of unit of local government) in an amount sufficient to pay the principal of and interest on bonds if approved by the following ballot question. Shall the order authorizing \$ _____ bonds plus interest for (briefly stating the purpose) and providing that additional taxes may be levied in an amount sufficient to pay the principal of and interest on the bonds be approved, in light of the following:

- (1) The estimated cumulative cost over the life of the bond, using the highest interest rate charged for similar debt over the last (maximum bond issuance term), would be (\$ _____).
- (2) The amount of property tax liability increase for each one hundred thousand dollars (\$100,000) of property tax value to service the cumulative cost over the life of the bond provided above would be (\$ _____) per year.

YES

NO"

The bill would also do the following:

- Require the LGC order of approval to include all of the following:
 - The total amount of interest estimated to result from the proposed bond using the highest interest rate charged when looking at the immediately preceding years for a term equal to the maximum issue term of the proposed bond.
 - The increase in property tax liability for each \$100,000 of property tax value necessary to service the debt.
 - A notice that the taxing authority may issue, without a vote, additional general obligation debt in an amount of up to 2/3 of the amount of the proposed bond as the debt is retired, including a calculation of that amount.
- Provide that a summary sheet be prepared by the finance officer of the taxing unit and filed with the clerk prior to the public hearing.

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- Require posting of the summary sheet, the LGC order of approval, and the statement of disclosure to the LGC website, the website of the taxing authority, and the website of the county board of elections conducting the bond referendum.
- Require the LGC to establish an online searchable database of all proposed bond issue approved by the LGC, by January 1, 2024.
- Add to the ballot language regarding establishing a fire tax district under Chapter 69 of the General Statutes a statement regarding the maximum tax rate that may be imposed under that Chapter.

EFFECTIVE DATE: Except as noted, December 31, 2023, and applies to bond referenda conducted on or after that date.