

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

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SENATE BILL 138
House Committee Substitute Favorable 7/15/98

Short Title: Pvt. H2O Sys. Loan/Dissolve Sanitary Dist.

(Public)

Sponsors:

Referred to:

February 17, 1997

1 AN ACT TO ALLOW CERTAIN PRIVATELY OWNED COMMUNITY WATER
2 SYSTEMS TO BE ELIGIBLE FOR REVOLVING LOANS AND GRANTS FROM
3 THE DRINKING WATER TREATMENT REVOLVING LOAN FUND AND TO
4 ALLOW AN ALTERNATIVE PROCEDURE FOR DISSOLUTION OF A
5 SANITARY DISTRICT THAT HAS NO INDEBTEDNESS AND THE
6 TERRITORY OF WHICH HAS BEEN ENTIRELY ANNEXED.

7 The General Assembly of North Carolina enacts:

8 Section 1.1. G.S. 159G-3 reads as rewritten:

9 "(2) 'Applicant' means a local government unit that applies for a revolving
10 loan or grant under the provisions of this Chapter. In addition, a local
11 government may provide funds to a nonprofit agency which is currently
12 under contract and authorized to provide wastewater treatment or water
13 supply services to that ~~unit of local government.~~ local government unit.
14 For purposes of the Drinking Water Treatment Revolving Loan Fund
15 established by G.S. 159G-5(d), 'applicant' also means a privately owned
16 community water system, as defined in G.S. 130A-313, that operates as
17 a public utility, as defined in G.S. 62-3, and that has obtained a
18 certificate of convenience and necessity under G.S. 62-110."

19 Section 1.2. G.S. 159G-3(6a) reads as rewritten:

1 "(6a) 'Debt instrument' means an instrument in the nature of a promissory
2 note executed by ~~a local government unit~~ an applicant under the
3 provisions of this Chapter, to evidence a debt to the State and
4 obligation to repay the principal, plus interest, under stated terms."

5 Section 1.3. G.S. 159G-3(5) reads as rewritten:

6 "(5) 'Grant' means a sum of money given by the State to ~~a local government~~
7 ~~unit~~ an applicant to subsidize the construction costs of a project
8 authorized by this Chapter, without any obligation on the part of such
9 unit to repay such sum."

10 Section 1.4. G.S. 159G-3(13) reads as rewritten:

11 "(13) 'Revolving construction loan' means a sum of money loaned by the
12 State to ~~a local government unit~~ an applicant to subsidize the
13 construction costs of a project authorized by this Chapter, with an
14 obligation on the part of such unit to repay such sum, the proceeds of
15 such repayment to be deposited in the ~~Water Pollution Control~~
16 ~~Revolving Fund~~ fund from which the loan was made."

17 Section 2. G.S. 159G-4(c) reads as rewritten:

18 "(c) All payments of interest and repayments of principal resulting from revolving
19 loans shall be credited to the respective accounts from which the revolving loan funds
20 were disbursed. Terms and conditions for repayment of revolving loans shall be
21 established by the Department of Environment and Natural Resources, with the assistance
22 of the Local Government Commission, consistent with the requirements of the Federal
23 Water Pollution Control Act and this Chapter. Provided, the interest rate for all revolving
24 loans authorized by this Chapter shall be fixed at the same percent per annum as the
25 interest rate fixed under the Federal Water Pollution Control Act for loans from the Water
26 Pollution Control Revolving Fund established by G.S. 159G-5(c), not to exceed the lesser
27 of four percent (4%) or one half (1/2) the prevailing national market rate for tax exempt
28 general obligation debt of similar maturities derived from a published indicator. Provided
29 further, the interest rate may be fixed at a lower rate per annum if authorized by the
30 Federal Water Pollution Control Act Regulations. It is the intent of the General Assembly
31 to provide uniform interest payments for all loans made to ~~units of local government~~
32 applicants irrespective of the account from which loans are made for either wastewater or
33 water supply projects."

34 Section 3. G.S. 159G-5(d) reads as rewritten:

35 "(d) The Drinking Water Treatment Revolving Loan Fund is established as a
36 special account within the Clean Water Revolving Loan and Grant Fund. This account
37 shall be established and managed in accordance with the requirements of section 130 of
38 Title I of the federal Safe Drinking Water Act Amendments of 1996 (Pub. L. 104-182;
39 110 Stat. 1662; 42 U.S.C. § 300j-12), to achieve the purposes and goals of the federal
40 Safe Drinking Water Act Amendments of 1996. The funds in the Drinking Water
41 Treatment Revolving Loan Fund may be used only for the purposes of providing
42 revolving construction loans and other assistance as set forth in section 130 of Title I of
43 the federal Safe Drinking Water Act Amendments of 1996 and the regulations

1 promulgated thereunder, including making grants to the extent permitted by these
2 amendments or these regulations. Funds in the Drinking Water Treatment Revolving
3 Loan Fund may be used by an applicant that is a privately owned community water
4 system only for a project that benefits a local government unit and that is consistent with
5 a local water supply plan that has been prepared and approved in accordance with G.S.
6 143-355(l)."

7 Section 4. G.S. 159G-6 reads as rewritten:

8 "**§ 159G-6. Distribution of funds.**

9 (a) Revolving loans and grants.

10 (1) All funds appropriated or accruing to the Clean Water Revolving
11 Loan and Grant Fund, other than funds set aside for administrative
12 expenses, shall be used for revolving loans and grants to ~~local~~
13 ~~government units~~ applicants for construction costs of wastewater
14 treatment works, wastewater collection systems and water supply
15 systems and other assistance as provided in this Chapter.

16 (2) The maximum principal amount of a revolving loan or a grant may
17 be one hundred percent (100%) of the nonfederal share of the
18 construction costs of any eligible project. The maximum principal
19 amount of revolving loans made to any one ~~local government unit~~
20 applicant during any fiscal year shall be three million dollars
21 (\$3,000,000). The maximum principal amount of grants made to any
22 one ~~local government unit~~ applicant during any fiscal year shall be one
23 million dollars (\$1,000,000).

24 (3) The State Treasurer shall be responsible for investing and
25 distributing all funds appropriated or accruing to the Clean Water
26 Revolving Loan and Grant Fund for revolving loans and grants
27 under this Chapter. In fulfilling his responsibilities under this
28 section, the State Treasurer shall make a written request to the
29 Department of Environment and Natural Resources to arrange for
30 the appropriated funds to be (i) transferred from the appropriate
31 accounts to ~~a local government unit~~ an applicant to provide funds for
32 one or more revolving loans or grants or (ii) invested as authorized
33 by this Chapter with the interest on and the principal of such
34 investments to be transferred to the ~~local government unit~~ applicant to
35 provide funds for one or more revolving loans or grants.

36 (b) Wastewater Accounts. – The sums allocated in G.S. 159G-4 and accruing to
37 the various Wastewater Accounts in each fiscal year shall be used to make revolving
38 loans and grants to local government units as provided below. The Department of
39 Environment and Natural Resources shall disburse no funds from the Wastewater
40 Accounts except upon receipt of written approval of the disbursement from the
41 Environmental Management Commission.

42 (1) General Wastewater Revolving Loan and Grant Account. – The
43 funds in the General Wastewater Revolving Loan and Grant Account

1 shall be used exclusively for the purpose of providing for revolving
2 construction loans or grants in connection with approved wastewater
3 treatment work or wastewater collection system projects.

4 (2) High-Unit Cost Wastewater Account. – The funds in the High-Unit
5 Cost Wastewater Account shall be available for grants to applicants
6 for high-unit cost wastewater projects. Eligibility of an applicant for
7 such a grant shall be determined by comparing estimated average
8 household user fees for water and sewer service, for debt service and
9 operation and maintenance costs, to one and one-half percent (1.5%)
10 of the median household income in the county in which the project is
11 located. The projects which would require estimated average
12 household water and sewer user fees greater than one and one-half
13 percent (1.5%) of the median household income are defined as high-
14 unit cost wastewater projects and will be eligible for a grant equal to
15 the excess cost, subject to the limitations in subsection (a)(2) of this
16 section.

17 (3) Emergency Wastewater Revolving Loan Account. – The funds in the
18 Emergency Wastewater Revolving Loan Account shall be available
19 for revolving emergency loans to applicants in the event the
20 Environmental Management Commission certifies that a serious
21 public health hazard, related to the inadequacy of existing
22 wastewater facilities, is present or imminent in a community.

23 (c) Water Supply Accounts. – The sums allocated in G.S. 159G-4 and accruing to
24 the various Water Supply Accounts in each fiscal year shall be used to provide revolving
25 loans and grants to ~~local government units~~ applicants as provided below. The Department
26 of Environment and Natural Resources shall disburse no funds from the Water Supply
27 Accounts except upon receipt of written approval of the disbursement from the Division
28 of Environmental Health.

29 (1) General Water Supply Revolving Loan and Grant Account. – The
30 funds in the General Water Supply Revolving Loan and Grant
31 Account shall be used exclusively for the purpose of providing for
32 revolving construction loans and grants in connection with water
33 supply systems generally and not upon a county allotment basis.

34 (2) High-Unit Cost Water Supply Account. – The funds in the High-
35 Unit Cost Water Supply Account shall be available for grants to
36 applicants for high-unit cost water supply systems, on the same basis
37 as provided in G.S. 159G-6(b)(2) for high-unit cost wastewater
38 projects.

39 (3) Emergency Water Supply Revolving Loan Account. – The funds in
40 the Emergency Water Supply Revolving Loan Account shall be
41 available for revolving emergency loans to applicants in the event
42 the Division of Environmental Health certifies that a serious public

1 health hazard, related to the water supply system, is present or
2 imminent in a community.

3 (d) Repealed by Session Laws 1991, c. 186, s. 4.

4 (e) Notwithstanding any other provision of this Chapter, funds in the Water
5 Pollution Control Revolving Fund shall not be available as grants except to the extent
6 permitted by Title VI of the Federal Water Quality Act of 1987 and the regulations
7 thereunder."

8 Section 5. G.S. 159G-9 reads as rewritten:

9 **"§ 159G-9. Eligibility.**

10 No application shall be eligible for a revolving loan or grant under this Chapter unless
11 it shall demonstrate to the satisfaction of the receiving agency that:

12 (1) The applicant is ~~a local government unit.~~ an applicant within the
13 meaning of G.S. 159G-3(2).

14 (2) The applicant has the financial capacity to pay the principal of and
15 the interest on its proposed obligations and loans.

16 (3) The applicant has substantially complied or will substantially
17 comply with all applicable laws, rules, regulations and ordinances,
18 federal, State and local.

19 (4) The applicant has agreed by official resolution to adopt and place
20 into effect on or before completion of the project a schedule of fees,
21 charges, and other available funds, including but not limited to the
22 funds described in G.S. 159G-13(b), that will adequately provide for
23 proper operation, maintenance, and administration of the project and
24 for repayment of all principal of and interest on loans."

25 Section 6. G.S. 159G-13 reads as rewritten:

26 **"§ 159G-13. Revolving loans and grants.**

27 (a) To be eligible to receive a revolving loan or grant pursuant to this Chapter, an
28 applicant shall have funds available or have a commitment for funding to cover project
29 costs that exceed the grant or loan for which the applicant has applied. An applicant may
30 apply for a revolving loan or grant prior to obtaining a commitment for additional
31 funding. ~~To be eligible to receive the revolving loans and grants provided for in this~~
32 ~~Chapter, local government units shall arrange to borrow the amounts necessary to be~~
33 ~~borrowed in connection therewith pursuant to the Local Government Finance Act or as~~
34 ~~provided in this Chapter as applicable. Local government units may apply for the revolving~~
35 ~~loans and grants prior to arranging for such borrowing.~~

36 (b) Revenues received by municipalities from sales and use taxes levied under
37 Articles 40, 41, and 42 of Chapter 105 of the General Statutes which are restricted in use
38 for water and sewage capital outlay, and retirement of indebtedness for those purposes,
39 may be used for periodic payments on revolving loans made under this Article."

40 Section 7. G.S. 159G-14 reads as rewritten:

41 **"§ 159G-14. Inspection.**

42 Inspection of a project for which a revolving loan or grant has been made under this
43 Chapter may be performed by qualified personnel of the Division of Environmental

1 Health or the Environmental Management Commission or may be performed by qualified
2 professional engineers, registered in this State, who have been approved by the Division
3 of Environmental Health or the Environmental Management Commission; but no person
4 shall be approved to perform inspections who is an officer or employee of the ~~unit of~~
5 ~~government applicant~~ to which the revolving loan or grant was made or who is an owner,
6 officer, employee or agent of a contractor or subcontractor engaged in the construction of
7 the project for which the revolving loan or grant was made. For the purpose of payment
8 of inspection fees, inspection services shall be included in the term "construction cost" as
9 used in this Chapter."

10 Section 8. G.S. 159G-15(b) reads as rewritten:

11 "(b) A copy of its rules adopted to implement the provisions of this Chapter shall be
12 furnished free of charge by the receiving agency and the Department of Environment and
13 Natural Resources to any ~~local government unit applicant.~~"

14 Section 9. G.S. 159G-18 reads as rewritten:

15 "**§ 159G-18. ~~Local government~~ Applicant borrowing authority.**

16 (a) ~~Local government units Applicants~~ may execute debt instruments payable to the
17 State in order to obtain revolving loans provided for in this Chapter. ~~Local government~~
18 ~~units Applicants~~ shall pledge as security for such obligations the user fee revenues
19 derived from operation of the benefited facilities or systems only, or other sources of
20 revenue, or their faith and credit, or any combination thereof. The faith and credit of ~~such~~
21 applicants that are local government units shall not be pledged or be deemed to have been
22 pledged unless the requirements of Article 4, Chapter 159 of the General Statutes have
23 been met. The State Treasurer, with the assistance of the Local Government
24 Commission, shall develop and adopt appropriate debt instruments for use by applicants
25 that are local government units under this Chapter. ~~The Local Government Commission~~
26 ~~shall develop and adopt appropriate procedures for the delivery of debt instruments by~~
27 ~~applicants that are local government units to the State without any public bidding~~
28 ~~therefor. The State Treasurer, with the assistance of the Utilities Commission, shall~~
29 ~~develop and adopt appropriate debt instruments for use by applicants that are privately~~
30 ~~owned community water systems. The Utilities Commission shall develop and adopt~~
31 ~~appropriate procedures for the delivery of debt instruments by applicants that are~~
32 ~~privately owned community water systems to the State.~~

33 (b) The Local Government Commission shall review and approve proposed loans
34 to applicants that are local government units under this Chapter under the provisions of
35 Articles 4 and 5, Chapter 159 of the General Statutes, as if the issuance of bonds was
36 proposed, so far as those provisions are applicable. An applicant that is a privately
37 owned community water system must obtain approval of its application for a revolving
38 loan or grant from the Utilities Commission in order to be eligible to receive the
39 revolving loan or grant. Revolving loans under this Chapter shall be outstanding debt of
40 applicants that are local government units for the purpose of Article 10, Chapter 159 of
41 the General Statutes."

42 Section 10. Article 2 of Chapter 130A of the General Statutes is amended by
43 adding a new section to read:

1 **"§ 130A-73.1. Dissolution of sanitary districts having no outstanding indebtedness**
2 **and located wholly within or coterminous with corporate limits of city or**
3 **town.**

4 (a) When the boundaries of a sanitary district that (i) is located entirely within one
5 county, (ii) has no outstanding indebtedness, (iii) at the time of its creation was not
6 located entirely within or coterminous with the corporate limits of a city or town, (iv) has
7 not provided any water or sewer service for at least five years, (v) did not levy any ad
8 valorem tax in the current year, (vi) has been for at least five years entirely located within
9 or coterminous with the corporate limits of a city or town, and (vii) at the time of the
10 annexation of the area of the district by that city or town, the city or town assumed all
11 assets and liabilities of the district, the board of that district by unanimous vote may
12 petition the board of commissioners of the county in which the district is located to
13 dissolve the district. Upon receipt of the petition, the board of commissioners shall notify
14 the Department and the governing body of the city or town within which the district lies
15 of the receipt of the petition. If the Commission, the county board of commissioners, and
16 the governing body of the city or town shall deem it advisable to comply with the request
17 of the petition, the Commission shall adopt a resolution dissolving the district. All taxes
18 levied by the sanitary district that were levied prior to, but that are collected after, the
19 dissolution shall vest in the city or town. All property held, owned, controlled, or used by
20 the sanitary district upon the dissolution or that may later be vested in the sanitary
21 district, and all judgments, liens, rights, and causes of actions in favor of the sanitary
22 district shall vest in the city or town. At the dissolution, taxes owed to the sanitary
23 district shall be collected by the city or town.

24 (b) The procedure for the dissolution of a sanitary district set out in this section is
25 an alternative to the procedure set out in G.S. 130A-73 and any sanitary district to which
26 both that section and this section apply may be dissolved under either section."

27 Section 11. This act is effective when it becomes law.