

GENERAL ASSEMBLY OF NORTH CAROLINA

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SENATE BILL 232
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Short Title: Clean Water Bonds.

(Public)

Sponsors:

Referred to:

February 24, 1997

1 A BILL TO BE ENTITLED
2 AN ACT TO AUTHORIZE THE ISSUANCE OF GENERAL OBLIGATION BONDS
3 OF THE STATE, SUBJECT TO A VOTE OF THE QUALIFIED VOTERS OF THE
4 STATE, TO PROVIDE FUNDS FOR GRANTS, LOANS, AND REVOLVING
5 LOANS TO LOCAL GOVERNMENT UNITS FOR WATER SUPPLY SYSTEMS,
6 WASTEWATER COLLECTION SYSTEMS, WASTEWATER TREATMENT
7 WORKS, AND WATER CONSERVATION PROJECTS.
8 The General Assembly of North Carolina enacts:
9 Section 1. Short title. This act shall be known as the "Clean Water Bond Act
10 of 1997".
11 Section 2. Purpose. It is the intent of the General Assembly by this act to
12 provide for the issuance of general obligation bonds of the State and to provide that the
13 proceeds realized from the sale of the bonds shall be allocated as follows:
14 (1) \$200,000,000 to provide State matching funds required to receive
15 federal wastewater or water supply assistance funds and to provide
16 additional funding for the Clean Water Revolving Loan and Grant Fund

1 established in Chapter 159G of the General Statutes or to provide
2 funding by grants and loans to local government units; and

- 3 (2) \$800,000,000 to provide loans to local government units to finance all
4 or a portion of the cost of construction, improvements, enlargements,
5 extensions, and reconstruction of water supply systems, wastewater
6 collection systems, wastewater treatment works, and water conservation
7 projects.

8 The funds to be derived from the sale of the Clean Water Bonds
9 authorized by this act are sufficient to meet no more than a fraction of
10 the needs that now exist and will arise in the immediate future. For this
11 reason, although public necessity and the criteria established by Chapter
12 159G of the General Statutes shall be the primary consideration in
13 granting and loaning funds, great emphasis shall also be placed on
14 achieving stringent reductions in the levels of nutrients and other
15 pollutants discharged into the State's waters, particularly in nutrient
16 sensitive river basins, in reducing the overall volume of effluent
17 discharged to the State's waters by using alternative methods of
18 wastewater treatment when feasible, on the creation of efficient systems
19 of regional wastewater disposal and regional water supply, and on the
20 willingness and ability of local government units to meet their
21 responsibilities through sound fiscal policies, creative planning, and
22 efficient operation and management.

23 Section 3. Definitions. As used in this act, unless the context otherwise
24 requires:

- 25 (1) " Bonds" means bonds issued under this act.
26 (2) " Clean Water Revolving Loan and Grant Act" means Chapter 796 of
27 the 1987 Session Laws, as amended from time to time, codified as
28 Chapter 159G of the General Statutes.
29 (3) " Clean Water Revolving Loan and Grant Fund" means the Clean Water
30 Revolving Loan and Grant Fund as defined in the Clean Water
31 Revolving Loan and Grant Act.
32 (4) " Cost" means, without intending thereby to limit or restrict any proper
33 definition of this term in financing the cost of facilities or purposes
34 authorized by this act:
35 a. The cost of constructing, reconstructing, enlarging, acquiring,
36 and improving facilities, and acquiring equipment and land
37 therefor,
38 b. The cost of engineering, architectural, and other consulting
39 services as may be required,
40 c. Administrative expenses and charges,
41 d. Finance charges and interest prior to and during construction and,
42 if deemed advisable by the State Treasurer, for a period not

- 1 exceeding two years after the estimated date of completion of
2 construction,
- 3 e. The cost of bond insurance, investment contracts, credit
4 enhancement and liquidity facilities, interest-rate swap
5 agreements or other derivative products, financial and legal
6 consultants, and related costs of bond and note issuance, to the
7 extent and as determined by the State Treasurer,
- 8 f. The cost of reimbursing the State for any payments made for any
9 cost described above, and
- 10 g. Any other costs and expenses necessary or incidental to the
11 purposes of this act.
- 12 Allocations in this act of proceeds of bonds to the costs of a project or
13 undertaking in each case may include allocations to pay the costs set
14 forth in items c., d., e., f., and g. in connection with the issuance of
15 bonds for the project or undertaking.
- 16 (5) "Credit facility" means an agreement entered into by the State
17 Treasurer on behalf of the State with a bank, savings and loan
18 association, or other banking institution, an insurance company,
19 reinsurance company, surety company, or other insurance institution, a
20 corporation, investment banking firm, or other investment institution, or
21 any financial institution or other similar provider of a credit facility,
22 which provider may be located within or without the United States of
23 America, such agreement providing for prompt payment of all or any
24 part of the principal or purchase price (whether at maturity, presentment
25 or tender for purchase, redemption or acceleration), redemption
26 premium, if any, and interest on any bonds or notes payable on demand
27 or tender by the owner, in consideration of the State agreeing to repay
28 the provider of the credit facility in accordance with the terms and
29 provisions of such agreement.
- 30 (6) "Local government units" means local government units as defined in
31 the Clean Water Revolving Loan and Grant Act.
- 32 (7) "Notes" means notes issued under this act.
- 33 (8) "Par formula" means any provision or formula adopted by the State to
34 provide for the adjustment, from time to time, of the interest rate or rates
35 borne by any bonds or notes, including:
- 36 a. A provision providing for such adjustment so that the purchase
37 price of such bonds or notes in the open market would be as close
38 to par as possible,
- 39 b. A provision providing for such adjustment based upon a
40 percentage or percentages of a prime rate or base rate, which
41 percentage or percentages may vary or be applied for different
42 periods of time, or

1 c. Such other provision as the State Treasurer may determine to be
2 consistent with this act and will not materially and adversely
3 affect the financial position of the State and the marketing of
4 bonds or notes at a reasonable interest cost to the State.

5 (9) " State" means the State of North Carolina.

6 (10) " Wastewater collection systems" means wastewater collection systems
7 as defined in the Clean Water Revolving Loan and Grant Act.

8 (11) " Wastewater treatment works" means wastewater treatment works as
9 defined in the Clean Water Revolving Loan and Grant Act.

10 (12) " Water conservation projects" include, but are not limited to, any
11 construction, repair, renovation, expansion, replacement of components,
12 or other capital improvement, including related equipment and land
13 acquisition, designed to:

14 a. Eliminate the wasteful or unnecessary use or loss of water in the
15 operations of a wastewater collection system, wastewater
16 treatment works, or water supply system; or

17 b. Enhance the operation of a wastewater collection system,
18 wastewater treatment works, or water supply system to provide a
19 more efficient use of water.

20 (13) " Water Pollution Control Revolving Fund" means the fund described
21 by G.S. 159G-4(a) and G.S. 159G-5(c).

22 (14) " Water supply systems" means water supply systems as defined in the
23 Clean Water Revolving Loan and Grant Act.

24 Section 4. Authorization of bonds and notes. Subject to a favorable vote of a
25 majority of the qualified voters of the State who vote on the question of issuing Clean
26 Water Bonds in the election called and held as provided in this act, the State Treasurer is
27 hereby authorized, by and with the consent of the Council of State, to issue and sell, at
28 one time or from time to time, general obligation bonds of the State to be designated
29 "State of North Carolina Clean Water Bonds", with any additional designations as may be
30 determined to indicate the issuance of bonds from time to time, or notes of the State as
31 provided in this act, in an aggregate principal amount not exceeding one billion dollars
32 (\$1,000,000,000) for the purpose of providing funds, with any other available funds, for
33 the purposes authorized in this act.

34 Section 5. Uses of bond and note proceeds. The proceeds of Clean Water
35 Bonds and notes shall be used for the purpose of making loans and grants to local
36 governments as follows:

37 (1) The proceeds of two hundred million dollars (\$200,000,000) of Clean
38 Water Bonds shall be used and allocated for the same purposes for
39 which funds in the Clean Water Revolving Loan and Grant Fund may
40 be used including, without limitation, to provide funds to be used to
41 make revolving loans and grants to local government units. The
42 revolving loans and grants shall be made for the purpose of paying the

1 cost of water supply systems, wastewater collection systems, and
2 wastewater treatment works.

3 The first priority for use of these proceeds shall be to provide State
4 funds necessary for the 1998-99 and 1999-2000 fiscal years to match the
5 federal wastewater or water supply assistance funds deposited in the
6 Water Pollution Control Revolving Fund or another fund that is used to
7 pay the cost of water supply systems, wastewater collection systems, or
8 wastewater treatment works and is eligible to receive federal matching
9 funds, unless the General Assembly has provided the required match
10 through other revenue, in which event this priority shall cease to exist to
11 the extent of the availability of the other revenue. For the purpose of
12 implementing this priority, the Department of Environment, Health, and
13 Natural Resources shall certify to the State Treasurer the amount of
14 funds required for the State match for each of the fiscal years ending
15 June 30, 1999, and June 30, 2000, and the extent to which the General
16 Assembly has provided other funds for this purpose. Upon certification
17 to the State Treasurer of the amount of funds required for the State
18 match for the fiscal year ending June 30, 1999, the State may issue up to
19 one hundred million dollars (\$100,000,000) of Clean Water Bonds
20 authorized by this subdivision for the purpose of funding the State
21 match for that fiscal year and for any other purposes authorized by this
22 subdivision. Upon certification to the State Treasurer of the amount of
23 funds required for the State match for the fiscal year ending June 30,
24 2000, the State may issue the remaining balance of Clean Water Bonds
25 authorized by this subdivision for the purpose of funding the State
26 match for that fiscal year and for any other purposes authorized by this
27 subdivision. The proceeds of the bonds necessary for the State match
28 for each fiscal year shall be deposited in the Water Pollution Control
29 Revolving Fund or another appropriate fund or account determined by
30 the State Treasurer.

31 The proceeds may be (i) transferred directly to the Clean Water
32 Revolving Loan and Grant Fund to make revolving loans or grants, (ii)
33 used to make revolving loans or grants directly to the appropriate local
34 government qualifying for a revolving loan or grant from the Clean
35 Water Revolving Loan and Grant Fund, (iii) used for any combination
36 of (i) and (ii), or (iv) used in such other manner as shall effectuate the
37 purposes of this act. Although public necessity and the criteria
38 established by Chapter 159G of the General Statutes shall be the
39 primary consideration in granting and loaning funds, great emphasis
40 shall also be placed on achieving stringent reductions in the levels of
41 nutrients and other pollutants discharged into the State's waters,
42 particularly in nutrient sensitive river basins, in reducing the overall
43 volume of effluent discharged to the State's waters by using alternative

1 methods of wastewater treatment when feasible, on the creation of
2 efficient systems of regional wastewater disposal and regional water
3 supply, and on the willingness and ability of local government units to
4 meet their responsibilities through sound fiscal policies, creative
5 planning, and efficient operation and management. Loans and grants
6 made from bond proceeds transferred from the Clean Water Bonds Fund
7 to the Clean Water Revolving Loan and Grant Fund shall be made and
8 administered in accordance with the provisions of the Clean Water
9 Revolving Loan and Grant Act. Loans and grants made from bond
10 proceeds directly to local government units and any loan repayments
11 shall, to the extent applicable, be made, administered, and applied in
12 accordance with the provisions of the Clean Water Revolving Loan and
13 Grant Act. Repayments of any direct loans may be initially placed into
14 any fund or account as may be determined by the State Treasurer for the
15 purpose of determining compliance with the applicable requirements of
16 the federal tax law and shall be expended and disbursed therefrom under
17 the direction and supervision of the Director of the Budget.

- 18 (2) The proceeds of eight hundred million dollars (\$800,000,000) of Clean
19 Water Bonds shall be used for the purpose of making loans to local
20 government units to pay the cost of water supply systems, water
21 conservation projects, wastewater collection systems, and wastewater
22 treatment works. Sixty-nine percent (69%) of the proceeds of the bonds
23 and notes shall be allocated for loans to local government units for
24 wastewater collection systems and wastewater treatment works. Thirty-
25 one percent (31%) of the proceeds of the bonds and notes shall be
26 allocated for loans to local government units for water supply systems
27 and water conservation projects.

28 The proceeds shall be used to make loans directly to local
29 government units qualifying for a loan from the Clean Water Revolving
30 Loan and Grant Fund or loaned in such other manner as shall effectuate
31 the purposes of this act. To qualify for a loan from the Clean Water
32 Bonds Fund for the purpose of paying the cost of water supply systems,
33 a local government unit must have a water supply facility plan approved
34 by the Department of Environment, Health, and Natural Resources. A
35 water supply facility plan submitted by a local government unit to the
36 Department under G.S. 143-355(l) will be sufficient to meet this
37 requirement. To qualify for a loan from the Clean Water Bonds Fund
38 for the purpose of paying the cost of wastewater collection systems or
39 wastewater treatment works, a local government unit must have a
40 wastewater facility plan approved by the Department of Environment,
41 Health, and Natural Resources. A wastewater facility plan must project
42 future wastewater treatment needs, must present a long-range plan to

1 meet those needs, and must include plans for system operations and
2 maintenance of the facilities being built with the bond proceeds.

3 The Department of Environment, Health, and Natural Resources
4 shall set the priorities and determine the eligibility of local government
5 units for these loans in accordance with Section 10 of this act. The form
6 of the loans and the details thereof including, without limitation, the
7 maturity, interest rate, and amortization schedule shall be determined,
8 from time to time, by the State Treasurer. In making these
9 determinations, the State Treasurer shall consider the purpose of the
10 loans, the ability of local government units to repay the loans, and the
11 security for the loans. The interest rates on these loans shall reflect the
12 self-supporting nature of the loan program and shall be sufficient to
13 cover substantially all payments of debt service on the eight hundred
14 million dollars (\$800,000,000) of Clean Water Bonds and the issuance
15 costs and administrative expenses associated with the issuance of these
16 bonds and the making of these loans, subject to any applicable
17 requirements of the federal tax law.

18 Repayments of the loans shall be credited to the General Fund and
19 may be used to pay, directly or indirectly, debt service on the bonds and
20 notes issued. Repayments may be initially placed into such fund or
21 account as may be determined by the State Treasurer for the purpose of
22 determining compliance with applicable requirements of the federal tax
23 law and shall be expended and disbursed therefrom under the direction
24 and supervision of the Director of the Budget.

25 Any additional moneys which may be received by means of a grant or grants
26 from the United States of America or any agency or department thereof or from any other
27 source for deposit to the Clean Water Bonds Fund may be placed in the Clean Water
28 Bonds Fund or in a separate account or fund and shall be disbursed, to the extent
29 permitted by the terms of the grant or grants, without regard to any limitations imposed
30 by this act.

31 Moneys in the Clean Water Bonds Fund, the Clean Water Bonds Loan Fund,
32 or any separate fund or account established under this act may be invested from time to
33 time by the State Treasurer in the same manner permitted for investment of moneys
34 belonging to the State or held in the State treasury, except with respect to grant money to
35 the extent otherwise directed by the terms of the grant. Investment earnings, except
36 investment earnings with respect to grant moneys to the extent otherwise directed or
37 restricted by the terms of the grant, may be (i) credited to the Clean Water Bonds Fund,
38 the Clean Water Bonds Loan Fund, or any separate fund or account established under this
39 act, (ii) used to pay debt service on the bonds authorized by this act, (iii) used to satisfy
40 compliance with applicable requirements of the federal tax law, or (iv) transferred to the
41 General Fund of the State.

42 The proceeds of bonds and notes may be used with any other moneys made
43 available by the General Assembly for making grants and loans authorized by this act,

1 including the proceeds of any other State bond issues, whether heretofore made available
2 or which may be made available at the session of the General Assembly at which this act
3 is ratified or any subsequent sessions. The proceeds of bonds and notes shall be
4 expended and disbursed under the direction and supervision of the Director of the
5 Budget. The funds provided by this act shall be disbursed for the purposes provided in
6 this act upon warrants drawn on the State Treasurer by the State Controller, which
7 warrants shall not be drawn until requisition has been approved by the Director of the
8 Budget and which requisition shall be approved only after full compliance with the
9 Executive Budget Act, Article 1 of Chapter 143 of the General Statutes.

10 Section 6. Allocation of proceeds. The proceeds of Clean Water Bonds and
11 notes, including premium thereon, if any, except the proceeds of bonds the issuance of
12 which has been anticipated by bond anticipation notes or the proceeds of refunding bonds
13 or notes, shall be placed by the State Treasurer in a special fund to be designated "Clean
14 Water Bonds Fund", which may include such appropriate special accounts therein as may
15 be determined by the State Treasurer and shall be disbursed as provided in this act.
16 Moneys in the Clean Water Bonds Fund shall be allocated and expended as provided in
17 this act.

18 Allocations to the costs of a capital improvement or undertaking in each case
19 may include allocations to pay the costs set forth in Section 3(4)c., d., e., f., and g. of this
20 act in connection with the issuance of bonds for that capital improvement or undertaking.

21 Section 7. Election. The question of the issuance of the bonds authorized by
22 this act shall be submitted to the qualified voters of the State at the next statewide
23 election or statewide primary election, whichever comes first. Any other primary,
24 election, or referendum validly called or scheduled by law at the time the election on the
25 bond question provided for in this section is held, may be held as called or scheduled.
26 Notice of the election shall be given in the manner and at the times required by G.S. 163-
27 33(8). The election and the registration of voters therefor shall be held under and in
28 accordance with the general laws of the State. Absentee ballots shall be authorized in the
29 election.

30 The State Board of Elections shall reimburse the counties of the State for all
31 necessary expenses incurred in holding the election that are in addition to those that
32 would have otherwise been incurred, the same to be paid out of the Contingency and
33 Emergency Fund or other funds available to the State Board of Elections.

34 Ballots, voting systems authorized by Article 14 of Chapter 163 of the General
35 Statutes, or both may be used in accordance with rules prescribed by the State Board of
36 Elections. The bond question to be used in the ballots or voting systems shall be in
37 substantially the following form:

38 "[] FOR the issuance of one billion dollars (\$1,000,000,000) State of North
39 Carolina Clean Water Bonds constituting general obligation bonds of
40 the State secured by a pledge of the faith and credit and taxing power of
41 the State for the purpose of providing funds, with any other available
42 funds, to make loans, revolving loans, and grants to local government
43 units to pay all or a portion of the cost of clean water projects.

1 [] AGAINST the issuance of one billion dollars (\$1,000,000,000) State of
2 North Carolina Clean Water Bonds constituting general obligation
3 bonds of the State secured by a pledge of the faith and credit and taxing
4 power of the State for the purpose of providing funds, with any other
5 available funds, to make loans, revolving loans, and grants to local
6 government units to pay all or a portion of the cost of clean water
7 projects."

8 If a majority of those voting on the Clean Water Bond question in the election
9 vote in favor of the issuance of the bonds, the bonds may be issued as provided in this
10 act. If a majority of those voting on the Clean Water Bond question in the election vote
11 against the issuance of the bonds, the bonds shall not be issued.

12 The results of the election shall be canvassed and declared as provided by law
13 for elections for State officers; the results of the election shall be certified by the State
14 Board of Elections to the Secretary of State, in the manner and at the time provided by
15 the general election laws of the State.

16 Section 8. Issuance of bonds and notes. (a) Terms and Conditions. Bonds or notes
17 may bear such date or dates, may be serial or term bonds or notes, or any combination
18 thereof, may mature in such amounts and at such time or times, not exceeding 40 years
19 from their date or dates, may be payable at such place or places, either within or without
20 the United States of America, in such coin or currency of the United States of America as
21 at the time of payment is legal tender for payment of public and private debts, may bear
22 interest at such rate or rates, which may vary from time to time, and may be made
23 redeemable before maturity, at the option of the State or otherwise as may be provided by
24 the State, at such price or prices, including a price less than the face amount of the bonds
25 or notes, and under such terms and conditions, all as may be determined by the State
26 Treasurer, by and with the consent of the Council of State.

27 (b) Signatures; Form and Denomination; Registration. Bonds or notes may be
28 issued as certificated or uncertificated obligations. If issued as certificated obligations,
29 bonds or notes shall be signed on behalf of the State by the Governor or shall bear his
30 facsimile signature, shall be signed by the State Treasurer or shall bear his facsimile
31 signature, and shall bear the Great Seal of the State or a facsimile thereof shall be
32 impressed or imprinted thereon. If bonds or notes bear the facsimile signatures of the
33 Governor and the State Treasurer, the bonds or notes shall also bear a manual signature
34 which may be that of a bond registrar, trustee, paying agent, or designated assistant of the
35 State Treasurer. Should any officer whose signature or facsimile signature appears on
36 bonds or notes cease to be such officer before the delivery of the bonds or notes, the
37 signature or facsimile signature shall nevertheless have the same validity for all purposes
38 as if the officer had remained in office until delivery and bonds or notes may bear the
39 facsimile signatures of persons who at the actual time of the execution of the bonds or
40 notes shall be the proper officers to sign any bond or note although at the date of the bond
41 or note such persons may not have been such officers. The form and denomination of
42 bonds or notes, including the provisions with respect to registration of the bonds or notes
43 and any system for their registration, shall be as the State Treasurer may determine in

1 conformity with this act; provided, however, that nothing in this act shall prohibit the
2 State Treasurer from proceeding, with respect to the issuance and form of the bonds or
3 notes, under the provisions of Chapter 159E of the General Statutes, the Registered
4 Public Obligations Act, as well as under this act.

5 (c) Manner of Sale; Expenses. Subject to determination by the Council of State as
6 to the manner in which bonds or notes shall be offered for sale, whether at public or
7 private sale, whether within or without the United States of America, and whether by
8 publishing notices in certain newspapers and financial journals, mailing notices, inviting
9 bids by correspondence, negotiating contracts of purchase or otherwise, the State
10 Treasurer is authorized to sell bonds or notes at one time or from time to time at such rate
11 or rates of interest, which may vary from time to time, and at such price or prices,
12 including a price less than the face amount of the bonds or the notes, as the State
13 Treasurer may determine. All expenses incurred in preparation, sale, and issuance of
14 bonds or notes shall be paid by the State Treasurer from the proceeds of bonds or notes or
15 other available moneys.

16 (d) Notes; Repayment.

17 (1) By and with the consent of the Council of State, the State Treasurer is
18 hereby authorized to borrow money and to execute and issue notes of
19 the State for the same, but only in the following circumstances and
20 under the following conditions:

- 21 a. For anticipating the sale of bonds to the issuance of which the
22 Council of State shall have given consent, if the State Treasurer
23 shall deem it advisable to postpone the issuance of the bonds;
- 24 b. For the payment of interest on or any installment of principal of
25 any bonds then outstanding, if there shall not be sufficient funds
26 in the State treasury with which to pay the interest or installment
27 of principal as they respectively become due;
- 28 c. For the renewal of any loan evidenced by notes herein
29 authorized;
- 30 d. For the purposes authorized in this act; and
- 31 e. For refunding bonds or notes as herein authorized.

32 (2) Funds derived from the sale of bonds or notes may be used in the
33 payment of any bond anticipation notes issued under this act. Funds
34 provided by the General Assembly for the payment of interest on or
35 principal of bonds shall be used in paying the interest on or principal of
36 any notes and any renewals thereof, the proceeds of which shall have
37 been used in paying interest on or principal of the bonds.

38 (e) Refunding Bonds and Notes. By and with the consent of the Council of
39 State, the State Treasurer is authorized to issue and sell refunding bonds and notes
40 pursuant to the provisions of the State Refunding Bond Act for the purpose of refunding
41 bonds or notes issued pursuant to this act. The refunding bonds and notes may be
42 combined with any other issues of State bonds and notes similarly secured.

1 (f) Tax Exemption. Bonds and notes shall be exempt from all State, county,
2 and municipal taxation or assessment, direct or indirect, general or special, whether
3 imposed for the purpose of general revenue or otherwise, excluding inheritance and gift
4 taxes, income taxes on the gain from the transfer of bonds and notes, and franchise taxes.
5 The interest on bonds and notes shall not be subject to taxation as to income.

6 (g) Investment Eligibility. Bonds and notes are hereby made securities in
7 which all public officers, agencies, and public bodies of the State and its political
8 subdivisions, all insurance companies, trust companies, investment companies, banks,
9 savings banks, savings and loan associations, credit unions, pension or retirement funds,
10 other financial institutions engaged in business in the State, executors, administrators,
11 trustees, and other fiduciaries may properly and legally invest funds, including capital in
12 their control or belonging to them. Bonds and notes are hereby made securities which
13 may properly and legally be deposited with and received by any officer or agency of the
14 State or political subdivision of the State for any purpose for which the deposit of bonds,
15 notes, or obligations of the State or any political subdivision is now or may hereafter be
16 authorized by law.

17 (h) Faith and Credit. The faith and credit and taxing power of the State are
18 hereby pledged for the payment of the principal of and the interest on bonds and notes.
19 In addition to the State's right to amend any provision of this act to the extent it does not
20 impair any contractual right of a bond owner, the State expressly reserves the right to
21 amend any provision of this act with respect to the making and repayment of loans, the
22 disposition of any repayments of loans, and any intercept provisions relating to the failure
23 of a local government unit to repay a loan, the bonds not being secured in any respect by
24 loans, any repayments thereof, or any intercept provisions with respect thereto.

25 Section 9. Variable interest rates. In fixing the details of bonds and notes, the
26 State Treasurer may provide that any of the bonds or notes may:

- 27 (1) Be made payable from time to time on demand or tender for purchase
28 by the owner thereof provided a credit facility supports the bonds or
29 notes, unless the State Treasurer specifically determines that a credit
30 facility is not required upon a finding and determination by the State
31 Treasurer that the absence of a credit facility will not materially or
32 adversely affect the financial position of the State and the marketing of
33 the bonds or notes at a reasonable interest cost to the State;
- 34 (2) Be additionally supported by a credit facility;
- 35 (3) Be made subject to redemption or a mandatory tender for purchase prior
36 to maturity;
- 37 (4) Bear interest at a rate or rates that may vary for such period or periods
38 of time, all as may be provided in the proceedings providing for the
39 issuance of the bonds or notes, including, without limitation, such
40 variations as may be permitted pursuant to a par formula; and
- 41 (5) Be made the subject of a remarketing agreement whereby an attempt is
42 made to remarket bonds or notes to new purchasers prior to their

1 presentment for payment to the provider of the credit facility or to the
2 State.

3 If the aggregate principal amount repayable by the State under a credit facility
4 is in excess of the aggregate principal amount of bonds or notes secured by the credit
5 facility, whether as a result of the inclusion in the credit facility of a provision for the
6 payment of interest for a limited period of time or the payment of a redemption premium
7 or for any other reason, then the amount of authorized but unissued bonds or notes during
8 the term of such credit facility shall not be less than the amount of such excess, unless the
9 payment of such excess is otherwise provided for by agreement of the State executed by
10 the State Treasurer.

11 Section 10. Special provisions governing clean water loans. (a) Scope. The
12 provisions of this section shall apply to loans being made from the proceeds of bonds
13 authorized by this act for clean water projects, other than from funds deposited in the
14 Clean Water Revolving Loan and Grant Fund.

15 (b) Clean Water Bonds Loan Fund. There is established in the Department of
16 State Treasurer a fund to be known as the Clean Water Bonds Loan Fund, which may
17 include any special or segregated accounts the State Treasurer considers appropriate.
18 There shall be deposited in the Clean Water Bonds Loan Fund proceeds of the Clean
19 Water Bonds and notes to be used to make loans, other than loans to be made through the
20 Clean Water Revolving Loan and Grant Fund, to local government units for clean water
21 projects as provided in this act.

22 Except as otherwise permitted by Section 5 of this act with respect to the use of
23 investment earnings, all moneys accruing to the credit of the Clean Water Bonds Loan
24 Fund, other than funds set aside for administrative expenses, including expenses related
25 to determining compliance with applicable requirements of the federal tax law and costs
26 of issuance, shall be used to make loans for the purposes provided in this act. The State
27 Treasurer shall be responsible for making and administering all loans pursuant to the
28 provisions of this section.

29 (c) Application for Loans; Hearings.

30 (1) Eligibility/Initial Hearing.

31 a. Prior to filing an application for a loan, a local government unit
32 shall hold a public hearing. A notice of the public hearing shall
33 be published once at least 10 days before the date fixed for the
34 hearing.

35 b. All applications for loans shall be filed with the Department of
36 Environment, Health, and Natural Resources. The form of the
37 application shall be prescribed by the Department and shall
38 require any information necessary to determine the eligibility for
39 a loan under the provisions of this section. All applications
40 approved by the Department of Environment, Health, and
41 Natural Resources shall be filed with the Local Government
42 Commission. Each applicant shall furnish to the Department of
43 Environment, Health, and Natural Resources and the Local

- 1 Government Commission information in addition or
2 supplemental to the information contained in its application,
3 upon request.
- 4 c. A local government unit shall not be eligible for a loan unless it
5 demonstrates to the satisfaction of the Department of
6 Environment, Health, and Natural Resources and the Local
7 Government Commission that:
- 8 1. The applicant is a local government unit;
 - 9 2. The applicant has the financial capacity to pay the
10 principal of and interest on its proposed loan as evidenced
11 by the approval of the Local Government Commission;
 - 12 3. The applicant has substantially complied or will
13 substantially comply with all applicable laws, rules,
14 regulations, and ordinances, whether federal, State, or
15 local; and
 - 16 4. The applicant has agreed by official resolution to adopt
17 and place into effect a schedule of fees and charges or the
18 application of other sources of revenue which will provide
19 adequate funds for proper operation, maintenance, and
20 administration of the project and repayment of all
21 principal and interest on the loan.
- 22 (2) Assessment. The Department of Environment, Health, and Natural
23 Resources may require any applicant to file with its application an
24 assessment of the impact the project for which the funds are sought will
25 have upon meeting the facility needs of the area within which the
26 project is to be located.
- 27 (3) Hearing by the Department of Environment, Health, and Natural
28 Resources or the Local Government Commission. A public hearing
29 may be held by the Department of Environment, Health, and Natural
30 Resources or the Local Government Commission at any time on any
31 application. Public hearings may also be held by the Department of
32 Environment, Health, and Natural Resources in its discretion upon
33 written request from any citizen or taxpayer who is a resident of the
34 county or counties in which the project is to be located or a resident of
35 the local government unit that proposes to borrow moneys under this
36 act, if it appears that the public interest will be served by the hearing.
37 The written request shall set forth each objection to the proposed project
38 or other reason for requesting a hearing on the application and shall
39 contain the name and address of the persons submitting it. In deciding
40 whether to grant a request for a hearing on an application, the
41 Department of Environment, Health, and Natural Resources may
42 consider the application, the written objections to the proposed project,
43 and the facility needs and shall determine if the public interest will be

1 served by a hearing. The determination by the Department of
2 Environment, Health, and Natural Resources shall be conclusive, and all
3 written requests for a hearing shall be retained as a permanent part of
4 the records pertaining to the application.

- 5 (4) Petition for Vote. A petition, demanding that the question of whether to
6 enter into a loan agreement with the State under this act be submitted to
7 voters, may be filed with the clerk of the local government unit applying
8 for the loan within 15 days after the public hearing required by this
9 section. The petition's sufficiency shall be determined and a
10 referendum, if any, shall be conducted according to the standards,
11 procedures, and limitations set out in G.S. 159-60 through G.S. 159-62.

12 (d) Priorities.

- 13 (1) Determination. Determination of priorities to be assigned each eligible
14 project shall be made semiannually by the Department of Environment,
15 Health, and Natural Resources during each fiscal year. Every eligible
16 project shall be considered by the Department of Environment, Health,
17 and Natural Resources with every other project eligible during this same
18 priority period.

- 19 (2) Priority Factors. All applications for loans under this act shall be
20 assigned a priority by the Department of Environment, Health, and
21 Natural Resources. Having a comprehensive land-use plan that meets
22 the requirements of G.S. 159G-10(e) shall be a priority factor, and
23 having a plan that meets the requirements of that subsection and exceeds
24 the minimum State standards for protection of the State's water
25 resources shall receive greater priority than having a plan that does not
26 exceed those standards. The Department of Environment, Health, and
27 Natural Resources shall establish other priority factors criteria by rule.

- 28 (3) Assignment of Priority. A written statement relative to each priority
29 assigned shall be prepared by the Department of Environment, Health,
30 and Natural Resources and shall be attached to the application. The
31 priority assigned shall be conclusive.

- 32 (4) Failure to Qualify. If an application does not qualify for a loan as of the
33 prior period in which the application was eligible for consideration by
34 reason of the priority assigned, the application shall be considered
35 during the next succeeding priority period upon request of the applicant.
36 If the application again fails to qualify for a loan during the second
37 priority period by reason of the priority assigned, the application shall
38 receive no further consideration. An applicant may file a new
39 application at any time and may amend any pending application to
40 include additional data or information.

- 41 (5) Withdrawal of Commitment. Failure of an applicant within one year
42 after the date of acceptance of the loan to arrange for necessary
43 financing of the proposed project or award of the contract of the

1 construction of the proposed project shall constitute sufficient cause for
2 withdrawal of the commitment. Prior to withdrawal of a commitment,
3 the Department of Environment, Health, and Natural Resources shall
4 give due consideration to any extenuating circumstances presented by
5 the applicant as reasons for failure to arrange necessary financing or to
6 award a contract, and the commitment may be extended for an
7 additional period of time if, in the judgment of the Department of
8 Environment, Health, and Natural Resources, the extension is justified.

9 (e) Disbursement. To be eligible to receive the loans provided for in this
10 section, a local government unit must arrange to borrow the amounts necessary pursuant
11 to rules adopted by the Local Government Commission. No funds shall be disbursed
12 until the Department of Environment, Health, and Natural Resources gives a certificate of
13 eligibility to the effect that the applicant meets all eligibility criteria and that all
14 procedural requirements of this act have been met. The maximum principal amount of a
15 loan shall be one hundred percent (100%) of the cost of any eligible project.

16 (f) Intercept. The governing body of a local government unit shall by
17 resolution authorize to be included in its loan agreement a provision authorizing the State
18 Treasurer, upon failure of the local government unit to make a scheduled repayment of
19 the loan, to withhold from the local government unit any State funds that would
20 otherwise be distributed to the local government unit in an amount sufficient to pay all
21 sums then due and payable to the State as a repayment of the loan. In such event,
22 notwithstanding any other provision of law, the State Treasurer is authorized to withhold
23 and apply such funds to the repayment of the loan, except that such funds shall not be
24 withheld if (i) before the execution of the loan agreement, such funds have been legally
25 pledged to secure special obligation bonds or other obligations of the local government
26 unit, or (ii) after the execution of the loan agreement, such funds are legally pledged to
27 secure special obligation bonds or other obligations of the local government unit as
28 authorized in this subsection. After the execution of a loan agreement, all or any portion
29 of the State funds specified in the loan agreement to be so withheld may be pledged to
30 secure special obligation bonds or other obligations of the local government unit only
31 with the prior written consent of the State Treasurer.

32 The State Treasurer shall notify the Secretary of Revenue and the State
33 Controller of the amount to be withheld from the local government unit, and the
34 Secretary of Revenue and the State Controller shall transfer to the State Treasurer the
35 amount so requested to be applied by the State Treasurer to the repayment of the loan.

36 (g) Inspection. Inspection of a project for which a loan has been made under
37 this act may be performed by qualified personnel of the Department of Environment,
38 Health, and Natural Resources or may be performed by qualified engineers registered in
39 this State approved by the Department of Environment, Health, and Natural Resources.
40 No person shall be approved to perform inspections who is an officer employed by the
41 local government unit to which the loan was made or who is an owner, officer, employer,
42 or agent of a contractor or subcontractor engaged in the construction of the project for

1 which the loan was made. For the purpose of payment of inspection fees, inspection
2 services shall be included in the term "cost" as used in this act.

3 (h) Rules. The State Treasurer, the Local Government Commission, and the
4 Department of Environment, Health, and Natural Resources may adopt, modify, and
5 repeal rules necessary for the administration of their respective duties under this act.
6 Uniform rules may be jointly adopted where feasible and desirable, and no rule, jointly
7 adopted, may be modified or revoked except upon concurrence of all agencies involved.

8 (i) Federal Grants and Loans. In order to carry out the purposes of this act to
9 secure the greatest possible benefits to the citizens of this State of the funds appropriated,
10 the State Treasurer, the Local Government Commission, and the Department of
11 Environment, Health, and Natural Resources shall adopt rules and criteria, not
12 inconsistent with provisions of this act, as are necessary and appropriate to conform to
13 regulations for federal grants and loans for any of the purposes set forth in this act.

14 (j) Reports. The Department of Environment, Health, and Natural Resources
15 shall prepare and file each year on or before July 31 with the Joint Legislative
16 Commission on Governmental Operations a report for the preceding fiscal year
17 concerning the allocation and making of loans authorized by this act. The report shall set
18 forth for the preceding fiscal year:

- 19 (1) Itemized and total allocations of loans authorized and unallocated funds
20 for the loan program as of the end of the preceding fiscal year;
- 21 (2) Identification of each loan agreement entered into by the State during
22 the preceding fiscal year and the total amount of loans authorized by
23 such loan agreements;
- 24 (3) The amount disbursed to each local government unit pursuant to such
25 loan agreements during the preceding fiscal year and the total amount of
26 such disbursements;
- 27 (4) The loan repayments made by each local government unit pursuant to
28 such loan agreements and the total amount of such loan repayments
29 during the preceding fiscal year; and
- 30 (5) A summary for the five preceding years of the information required by
31 subdivisions (1) through (4) of this subsection.

32 The report shall be signed by the Secretary of Environment, Health, and Natural
33 Resources.

34 (k) Local Government Commission.

35 (1) Local government units may execute debt instruments payable to the
36 State in order to obtain loans provided for in this act. Local government
37 units shall pledge or agree to apply as security for such obligations:

- 38 a. Any available source of revenues of the local government unit,
39 including revenues from benefitted facilities or systems, provided
40 that (i) the local government unit has not otherwise pledged the
41 revenues as security for, or contractually agreed to apply the
42 revenues to, the payment of any other obligations of the local
43 government unit, (ii) the use of the revenues is not otherwise

1 restricted by law, or (iii) the revenues are not derived from the
2 exercise of the local government unit's taxing power; or

- 3 b. Their faith and credit; or
4 c. Any combination of a. or b. above.

5 The faith and credit of a local government unit shall not be pledged
6 or be deemed to have been pledged unless the requirements of Article 4
7 of Chapter 159 of the General Statutes have been met. The State
8 Treasurer, with the assistance of the Local Government Commission,
9 shall develop and adopt appropriate debt instruments for use under this
10 act.

- 11 (2) Nothing contained in this act shall prohibit any local government unit
12 from applying any funds of the local government unit not otherwise
13 restricted as to use by law to the payment of any debt instrument
14 payable to the State incurred pursuant to the provisions of this act.

- 15 (3) The Local Government Commission shall review and approve proposed
16 loans to local government units under this act under the provisions of
17 Articles 4 and 5 of Chapter 159 of the General Statutes. The Local
18 Government Commission in considering the ability of a local
19 government unit to repay a loan may regard as a source of revenue for
20 repayment of a loan revenue sources that may not be available other
21 than on an annual discretionary basis and that may not be subject to a
22 pledge or agreement to apply. Loans under this act shall be outstanding
23 debts for the purposes of Article 10 of Chapter 159 of the General
24 Statutes.

- 25 (4) The State Treasurer shall annually certify to the General Assembly the
26 financial condition of the loan program and identify existing
27 delinquencies.

28 Section 11. Minority business participation. The goals set by G.S. 143-128 for
29 participation in projects by minority businesses apply to projects funded by the proceeds
30 of bonds or notes issued under this act. The Department of Environment, Health, and
31 Natural Resources shall monitor compliance with this requirement and shall report to the
32 General Assembly by January 1 of each year on the participation by minority businesses
33 in these projects.

34 Section 12. Interpretation of act. (a) Additional Method. The foregoing sections of
35 this act shall be deemed to provide an additional and alternative method for the doing of
36 the things authorized thereby and shall be regarded as supplemental and additional to
37 powers conferred by other laws, and shall not be regarded as in derogation of any powers
38 now existing.

39 (b) Statutory References. References in this act to specific sections or Chapters of
40 the General Statutes or to specific acts are intended to be references to these sections,
41 Chapters, or acts as they may be amended from time to time by the General Assembly.

42 (c) Liberal Construction. This act, being necessary for the health and welfare of
43 the people of the State, shall be liberally construed to effect the purposes thereof.

1 (d) Inconsistent Provisions. Insofar as the provisions of this act are inconsistent
2 with the provisions of any general laws, or parts thereof, the provisions of this act shall be
3 controlling.

4 (e) Severability. If any provision of this act or the application thereof to any
5 person or circumstance is held invalid, such invalidity shall not affect other provisions or
6 applications of the act which can be given effect without the invalid provision or
7 application, and to this end the provisions of this act are declared to be severable.

8 Section 13. Authorize regional planning loans and grants. G.S. 159G-3(4)
9 reads as rewritten:

10 "(4) 'Construction costs' means the actual costs of planning, designing and
11 constructing any project for which a revolving loan or grant is made
12 under this Chapter including planning; environmental assessment;
13 wastewater system analysis, evaluation and rehabilitation; engineering;
14 legal, fiscal, administrative and contingency costs for water supply
15 systems, wastewater collection systems, wastewater treatment works
16 and any extensions, improvements, remodeling, additions, or alterations
17 to existing systems. Construction costs may include excess or reserve
18 capacity costs, attributable to no more than 20-year projected domestic
19 growth, plus ten percent (10%) unspecified industrial growth. In
20 addition, construction costs shall include any fees payable to the
21 Environmental Management Commission or the Division of
22 Environmental Health for review of applications and grant of permits,
23 and fees for inspections under G.S. 159G-14. Construction costs may
24 also include the costs for purchase or acquisition of real property. The
25 term may also include the costs for planning and designing a regional
26 project or small town project. Funds for planning and designing a
27 regional project or small town project may be advanced prior to
28 construction of the project and may be paid even though the project is
29 never actually constructed. However the recipient of any funds
30 advanced as a loan prior to the construction of a project that is never
31 actually constructed is still obligated to repay the loan in accordance
32 with this Chapter. A small town is defined as a municipality with a
33 population of 1,000 or less, based on the most recent annual estimate of
34 population certified by the State Planning Officer."

35 Section 14. G.S. 159G-4(b) reads as rewritten:

36 "(b) Of the appropriations made from the General Fund to the Clean Water
37 Revolving Loan and Grant Fund for use of the Department of Environment, Health, and
38 Natural Resources as provided in this Chapter, allocations are made as follows after first
39 subtracting the amounts allocated under subsection (a) of this section, to the extent that
40 there are any excess funds available:

41 Wastewater Accounts

42 General Wastewater Revolving

43 Loan Account ~~39.00%~~ 38.00%

1	Emergency Wastewater Revolving		
2	Loan Account	10.00%	<u>9.00%</u>
3	High-Unit Cost Wastewater		
4	Account	20.00%	<u>22.00%</u>
5	Water Supply Accounts		
6	General Water Supply		
7	Revolving Loan Account	21.00%	<u>20.00%</u>
8	High-Unit Cost Water Supply		
9	Account	-5.00%	<u>7.00%</u>
10	Emergency Water Supply Revolving		
11	Loan Account	-5.00%	<u>4.00%</u> ".

12 Section 15. G.S. 159G-6 reads as rewritten:

13 **"§ 159G-6. Distribution of funds.**

14 (a) Revolving loans and grants.

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

21 (2) The maximum principal amount of a revolving loan or a grant may be
22 one hundred percent (100%) of the nonfederal share of the construction
23 costs of any eligible project. ~~The maximum principal amount of revolving~~
24 ~~loans made to any one local government unit during any fiscal year shall be~~
25 ~~three million dollars (\$3,000,000). The maximum principal amount of grants~~
26 ~~made to any one local government unit during any fiscal year shall be one~~
27 ~~million dollars (\$1,000,000).~~ The Department of Environment, Health,
28 and Natural Resources may establish maximum principal amounts for
29 revolving loans and for grants made to the same local government unit
30 in a fiscal year.

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

42 (b) Wastewater Accounts. – The sums allocated in G.S. 159G-4 and accruing to
43 the various Wastewater Accounts in each fiscal year shall be used to make revolving

1 loans and grants to local government units as provided below. The Department of
2 Environment, Health, and Natural Resources shall disburse no funds from the
3 Wastewater Accounts except upon receipt of written approval of the disbursement from
4 the Environmental Management Commission.

5 (1) General Wastewater Revolving Loan and Grant Account. – The funds in
6 the General Wastewater Revolving Loan and Grant Account shall be
7 used exclusively for the purpose of providing for revolving construction
8 loans or grants in connection with approved wastewater treatment work
9 or wastewater collection system projects.

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

23 (3) Emergency Wastewater Revolving Loan Account. – The funds in the
24 Emergency Wastewater Revolving Loan Account shall be available for
25 revolving emergency loans to applicants in the event the Environmental
26 Management Commission certifies that a serious public health hazard,
27 related to the inadequacy of existing wastewater facilities, is present or
28 imminent in a community.

29 (c) Water Supply Accounts. – The sums allocated in G.S. 159G-4 and accruing to
30 the various Water Supply Accounts in each fiscal year shall be used to provide revolving
31 loans and grants to local government units as provided below. The Department of
32 Environment, Health, and Natural Resources shall disburse no funds from the Water
33 Supply Accounts except upon receipt of written approval of the disbursement from the
34 Division of Environmental Health.

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

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

1 (3) Emergency Water Supply Revolving Loan Account. – The funds in the
2 Emergency Water Supply Revolving Loan Account shall be available
3 for revolving emergency loans to applicants in the event the Division of
4 Environmental Health certifies that a serious public health hazard,
5 related to the water supply system, is present or imminent in a
6 community.

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

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

12 Section 16. G.S. 159G-10 reads as rewritten:

13 "**§ 159G-10. Priorities.**

14 (a) Determination. – Determination of priorities to be assigned each eligible
15 application shall be made semiannually by each receiving agency during each fiscal year.
16 Every eligible application filed under G.S. 159G-5(c), G.S. 159G-6(b)(1) or G.S. 159G-
17 6(c)(1) shall be considered by the receiving agency with every other application filed
18 under G.S. 159G-5(c), G.S. 159G-6(b)(1) or G.S. 159G-6(c)(1), respectively, and eligible
19 for consideration during the same priority period, to determine the priority to be assigned
20 to each application. The same procedure shall apply to every eligible application filed
21 under G.S. 159G-6(b)(3) and G.S. 159G-6(c)(3) of this Chapter. Any application which
22 does not contain the information required by this Chapter or regulations adopted by the
23 receiving agency(s) shall not be deemed received until such information is furnished by
24 the applicant to the receiving agency.

25 (a1) **(See note)** Expired.

26 (b) Priority Factors. – All applications for revolving loans or grants under this
27 Chapter eligible for consideration during each priority period shall be assigned a priority
28 for such funds by the receiving agency. The priority factors shall be similar to those
29 developed under the North Carolina Clean Water Bond Act of 1977, as provided in and
30 modified by this subsection.

31 (1) General Criteria. –

32 a. The general criteria provided in 1 NCAC 22.0401 through .0403
33 on January 1, 1987, shall apply, except that 1 NCAC 22.0401(c)
34 shall apply only to State funds appropriated to match available
35 federal funds.

36 b. The existence of a comprehensive land-use plan that meets the
37 requirements of subsection (e) of this section is a general
38 criterion for determining which local government units will
39 receive a loan or grant. A local government unit that is not
40 authorized to adopt a comprehensive land-use plan but that is
41 located in whole or in part in another local government unit that
42 has adopted a comprehensive land-use plan shall receive the
43 same priority treatment as a local government unit that has

1 authority to adopt a comprehensive land-use plan. A
2 comprehensive land-use plan that meets the requirements of
3 subsection (e) of this section and that exceeds the minimum State
4 standards for protection of water resources shall receive more
5 points than a plan that does not exceed those standards.

6 (2) Wastewater Treatment Work Projects. – The priority criteria provided in
7 1 NCAC 22.0501 through .0506 on January 1, 1987, shall apply to
8 applications for wastewater treatment work projects, except that 1
9 NCAC 22.0503 shall not apply.

10 (3) Wastewater Collection System Projects. – The priority criteria provided
11 in 1 NCAC 22.0601 through .0606 on January 1, 1987, shall apply to
12 applications for wastewater collection system projects, except that 1
13 NCAC 22.0601(2)(a) and (3), and 1 NCAC 22.0605(2), (3) and (4) shall
14 not apply.

15 (4) Water Supply System Projects. – The priority criteria provided in 1
16 NCAC 22.0701 through .0704 on January 1, 1987, shall apply to
17 applications for water supply system projects.

18 (5) The total number of points available in the respective categories shall be
19 deemed adjusted in accordance with the provisions of subdivisions (1)
20 through (4) of this subsection.

21 (c) Assignment of Priority. – A written statement relative to each priority assigned
22 shall be prepared by the receiving agency and shall be attached to the application. The
23 priority assigned shall be conclusive.

24 (d) Failure to Qualify. – Any application filed under G.S. 159G-5(c), G.S. 159G-
25 6(b) or G.S. 159G-6(c) that does not qualify for a revolving loan or grant as of the
26 priority period in which the application was eligible for consideration by reason of the
27 priority assigned the application shall be considered for a revolving loan or grant during
28 the next succeeding priority period upon request of the applicant. If such application
29 should again fail to qualify for a revolving loan or grant during the second priority period
30 by reason of the priority assigned, the application shall receive no further consideration.
31 An applicant may file a new application at any time, and may amend any pending
32 application to include additional data or information.

33 (e) Land-Use Plan. – Local government units are encouraged to adopt
34 comprehensive land-use plans. The Division of Community Assistance in the
35 Department of Commerce shall, upon request, provide technical assistance to any
36 economically distressed local government unit in preparing a comprehensive land-use
37 plan. To qualify as a comprehensive land-use plan, a plan must meet all of the following
38 requirements:

39 (1) Be adopted by the governing body of the local government unit covered
40 by the plan.

41 (2) Promote economically and environmentally sustainable development.

42 (3) Establish verifiable goals to be met through compliance with the plan.

43 (4) Be approved by the Office of State Planning."

1 Section 16.1. G.S. 159G-3 is amended by adding a new subdivision to read:
2 "(7a) 'Economically distressed local government unit' means a local
3 government unit located, in whole or in part, in a county designated as
4 economically distressed by the Secretary of Commerce under G.S.
5 143B-437A."

6 Section 17. Effective date. Sections 13 through 16 of this act become
7 effective only if the voters approve the issuance of the Clean Water Bonds authorized by
8 this act in the election required by Section 7 of this act. The remaining sections of this
9 act are effective when the act becomes law.