

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

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HOUSE BILL 1785*

Short Title: Rural Center Funds/Water Infrastructure. (Public)

Sponsors: Representatives Owens, Crawford, Gillespie, Tarleton (Primary Sponsors); Bell, Dockham, Faison, Goforth, Hughes, McLawhorn, Pierce, Spear, Wilkins, and Wray.

Referred to: Water Resources and Infrastructure, if favorable, Appropriations.

May 19, 2010

A BILL TO BE ENTITLED

AN ACT TO APPROPRIATE FUNDS TO THE RURAL ECONOMIC DEVELOPMENT CENTER FOR CRITICAL WATER AND WASTEWATER GRANTS, AS RECOMMENDED BY THE LEGISLATIVE STUDY COMMISSION ON WATER AND WASTEWATER INFRASTRUCTURE.

The General Assembly of North Carolina enacts:

SECTION 1.(a) Appropriation. – There is appropriated from the General Fund to the Rural Economic Development Center, Inc., (Rural Center) the sum of fifty million dollars (\$50,000,000) for the 2010-2011 fiscal year to be used to provide grants to local government units for wastewater-related projects and for public water system-related projects as provided by this section. Funds may also be used to provide emergency water and sewer grants.

SECTION 1.(b) Definitions. – The definitions in G.S. 159G-20 apply in this section. In addition, the following definitions shall apply in this section unless otherwise provided:

- (1) Ability to pay. – An assessment of the ability of a local government unit to pay for a water infrastructure project as calculated annually by the Division of Community Assistance in the Department of Commerce.
- (2) Economically distressed area. – Any of the following:
 - a. An economically distressed county as defined in G.S. 143B-437.01.
 - b. That part of a county in which the poverty rate is at least one hundred fifty percent (150%) of the State poverty rate. The poverty rate is the percentage of the population whose income is below the most recent federal poverty level set by the U.S. Bureau of the Census.
 - c. If it is not a county, its ability to pay is less than fifty percent (50%) of the ability to pay of the county in which it is located.
- (3) Rural county. – A county with a population density of fewer than 250 people per square mile based on the most recent federal decennial census.

SECTION 1.(c) Eligible Applicants; Eligible Projects. – A local government unit is eligible for a grant under this section if it meets the eligibility requirements under subsection (d) of this section. The funds appropriated under this section may be used to provide a supplemental grant that meets the requirements of subsections (d) and (e) of this section. The following projects are eligible for receiving a grant under this section:

- (1) Wastewater collection system.
- (2) Wastewater treatment works.
- (3) Public water system.



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1 **SECTION 1.(d)** Supplemental Grants. – A supplemental grant is available to
2 match other funds to be applied to the construction costs of an eligible project. Other funds
3 include federal funds, State funds, and local funds. A supplemental grant is subject to the
4 following restrictions:

5 (1) Eligibility. – A local government unit is eligible for a supplemental grant if it
6 meets the following criteria:

7 a. It is a rural county or is located in one of these counties.

8 b. It adopts a resolution to set the household user fee for water and
9 sewer service in the area served by the project at an amount that
10 equals or exceeds the high-unit-cost threshold.

11 (2) Maximum. – A supplemental grant shall not exceed five hundred thousand
12 dollars (\$500,000) unless the applicant meets one or more of these
13 descriptions:

14 a. It is an economically distressed county or is located in an
15 economically distressed county.

16 b. Its poverty rate is at least one hundred fifty percent (150%) of the
17 State poverty rate.

18 c. If it is not a county, its ability to pay is less than fifty percent (50%)
19 of the ability to pay of the county in which it is located.

20 The maximum supplemental grant for an applicant meeting at least one of
21 these descriptions is the lesser of one million dollars (\$1,000,000) or
22 twenty-five percent (25%) of the total project cost.

23 (3) Matching funds. – A local government unit shall match a supplemental grant
24 on a dollar-for-dollar basis unless the unit meets one or more of the
25 following descriptions, in which instance the Rural Center may require a
26 match of fifty percent (50%) or less:

27 a. It is an economically distressed county or is located in an
28 economically distressed county.

29 b. Its poverty rate is at least one hundred fifty percent (150%) of the
30 State poverty rate.

31 c. If it is not a county, its ability to pay is less than fifty percent (50%)
32 of the ability to pay of the county in which it is located.

33 A local government unit that meets one or more of these descriptions may
34 not provide less than a dollar-for-dollar match if the supplemental grant
35 amount requested exceeds five hundred thousand dollars (\$500,000).

36 **SECTION 1.(e)** Criteria for Grants. – All projects must document a current critical
37 water or wastewater need affecting human health or the environment or must document a
38 critical economic development need. The criteria in G.S. 159G-23, the criteria set out in this
39 section, and any other criteria established by the Board of Directors of the Rural Center shall
40 apply to a grant provided under this section. An application for a project that serves an
41 economically distressed area shall have priority over a project that does not. The Board of
42 Directors of the Rural Center may determine that a crisis need exists that merits special
43 consideration and may establish one or more subcategories of this program to address
44 applications that will meet the needs identified.

45 **SECTION 1.(f)** Grant Applications. – Any application for a grant under this
46 section shall be submitted by the local government unit to the Rural Center. An application
47 shall be submitted on a form prescribed by the Rural Center and shall contain the information
48 required by the Rural Center. An applicant shall submit to the Rural Center any additional
49 information requested by the Rural Center to enable the Rural Center to make a determination
50 on the application. An application that does not contain information required for the application
51 or requested by the Rural Center is incomplete and is not eligible for consideration.

1 **SECTION 1.(g)** Environmental Assessment. – An application submitted under this
2 section for a supplemental grant shall state whether the project to be funded by the grant
3 requires an environmental assessment. If the application indicates that an environmental
4 assessment is not required, it must identify the exclusion in the North Carolina Environmental
5 Policy Act, Article 1 of Chapter 113A of the General Statutes, that applies to the project. An
6 application that does not identify an exclusion in the North Carolina Environmental Policy Act
7 shall include evidence that the environmental assessment of the project's probable impacts on
8 the environment was submitted to the Department of Environment and Natural Resources or to
9 the relevant federal agency providing financing for the project.

10 **SECTION 1.(h)** Review of Applications and Award of Grant. – The Rural Center
11 shall review grant applications and award grants as provided by this subsection:

- 12 (1) Point assignment. – The Rural Center shall review all grant applications
13 submitted under this section for an application period, to be determined by
14 the Rural Center, and shall rank each application in accordance with the
15 points assigned to the evaluation criteria. Applications addressing a crisis
16 need may be ranked according to a special set of criteria or be reviewed for a
17 specifically determined application period. The Rural Center's determination
18 of rank is conclusive.
- 19 (2) Reconsideration. – When an application's rank is too low to receive an award
20 of a grant for the application period, the Rural Center may consider a new
21 application for the same project, provided the application addresses
22 questions from the previous grant round. The Rural Center may reject any
23 resubmission of the same project that does not adequately address questions
24 from the previous grant round. The Rural Center's determination of
25 adequacy is conclusive.
- 26 (3) Notification of decision. – When the Rural Center determines that an
27 application's rank makes it eligible for an award of a grant, the Rural Center
28 shall send the applicant a letter of intent to award the grant. The notice shall
29 set out any conditions the applicant must meet to receive an award of a
30 grant. When the applicant satisfies the conditions set out in the letter of
31 intent, the Rural Center shall send the applicant an offer to award a grant.
32 The applicant shall give the Rural Center written notice of whether it accepts
33 or rejects the offer. A grant is considered awarded the date the offer to award
34 the grant is sent by the Rural Center.

35 **SECTION 1.(i)** Disbursement of Grant. – A grant awarded under this section shall
36 be disbursed in two or more payments based on the progress of the project for which the grant
37 was awarded. To obtain a payment, a grant recipient shall submit a request for payment to the
38 Rural Center and shall document the expenditures for which the payment is requested. The
39 Rural Center shall review the payment request for compliance with all grant conditions.

40 **SECTION 1.(j)** Withdrawal of Grant. – An award for a supplemental grant for a
41 project is withdrawn if the applicant fails to enter into a construction contract for the project
42 within one year after the date of the award, unless the Board of Directors of the Rural Center
43 finds that the applicant has good cause for the failure. If the Rural Center finds good cause for
44 an applicant's failure, the Rural Center shall set a date by which the applicant must take action
45 or forfeit the grant.

46 **SECTION 1.(k)** Inspection of Project. – The Rural Center may inspect a project as
47 provided by this subsection:

- 48 (1) Authority. – The Rural Center may inspect a project for which it awards a
49 grant under this section to determine the progress made on the project and
50 whether the construction of the project is consistent with the project
51 described in the grant application. The inspection may be performed by

1 personnel of the Rural Center or by a professional engineer licensed under
2 Chapter 89C of the General Statutes.

3 (2) Disqualification. – An individual may not perform an inspection of a project
4 under this section if the individual meets any of the following criteria:

5 a. Is an officer or employee of the local government unit that received
6 the grant award for the project.

7 b. Is an owner, officer, employee, or agent of a contractor or
8 subcontractor engaged in the construction of the project for which the
9 grant was made.

10 **SECTION 1.(l)** Administration Costs. – The Rural Center may use a portion of the
11 funds appropriated under this section for administration, not to exceed two percent (2%), for
12 the life of the grant program created by this section.

13 **SECTION 1.(m)** Reporting Requirement. – The Rural Center shall report annually
14 to the Joint Legislative Commission on Governmental Operations regarding the progress of the
15 grant program created under this section. The report required by this subsection may be
16 included as part of the Rural Center's annual report required by Section 14.27(e) of S.L.
17 2009-451. The first report required under this subsection is due no later than September 1,
18 2011.

19 **SECTION 1.(n)** Separate Accounts. – Each grant that is provided under this
20 section shall be administered through a separate account.

21 **SECTION 1.(o)** Loans Prohibited. – The Rural Center shall not use the funds
22 appropriated under this section to make loans.

23 **SECTION 2.** This act becomes effective July 1, 2010.