

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1993

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SENATE BILL 65*

Short Title: Clean Water Bond Bill.

(Public)

Sponsors: Senators Tally; Sherron, Ward, Odom, Hartsell, Edwards, Carpenter, Cochran, Seymour, and Smith.

Referred to: Finance.

February 4, 1993

A BILL TO BE ENTITLED

1 AN ACT TO AUTHORIZE THE ISSUANCE OF ONE HUNDRED TWENTY
2 MILLION DOLLARS IN GENERAL OBLIGATION BONDS OF THE STATE,
3 SUBJECT TO A VOTE OF THE QUALIFIED VOTERS OF THE STATE, TO
4 PROVIDE FUNDS THROUGH GRANTS, REVOLVING LOANS, AND LOANS
5 TO LOCAL GOVERNMENT UNITS FOR WATER SUPPLY SYSTEMS,
6 WASTEWATER COLLECTION SYSTEMS, AND WASTEWATER
7 TREATMENT WORKS.

8
9 The General Assembly of North Carolina enacts:

10 Section 1. **Short title.**

11 This act shall be known and may be cited as the "North Carolina Clean Water
12 Bond Act of 1993".

13 Sec. 2. Findings and determinations.

14 It is the intent and purpose of the General Assembly by this act to provide for
15 the issuance of one hundred twenty million dollars (\$120,000,000) in general obligation
16 bonds of the State, and to provide that the proceeds realized from the sale of the bonds
17 shall be allocated as follows:

18 Twenty million dollars (\$20,000,000) to provide State matching funds
19 required to receive federal wastewater assistance funds and to provide additional
20 funding for the Clean Water Revolving Loan and Grant Fund established in Chapter
21 159G of the General Statutes to assist in the financing of the cost of improvements,
22 enlargements, extensions, and reconstruction of water supply systems, wastewater

1 collection systems, and wastewater treatment works, and the construction of new such
2 systems and works.

3 One hundred million dollars (\$100,000,000) to provide loans to local
4 government units to assist in the financing of the cost of improvements, enlargements,
5 extensions, and reconstruction of water supply systems, wastewater collection systems,
6 and wastewater treatment works, and the construction of new such systems and works.
7 Loans shall be made only to those local government units that are eligible for and that
8 qualify for loans from the Clean Water Revolving Loan and Grant Fund established in
9 Chapter 159G of the General Statutes.

10 The funds to be derived from the sale of the bonds authorized by this act are
11 sufficient to meet no more than a fraction of the needs which now exist and will arise in
12 the immediate future. For this reason although public necessity and the criteria
13 established by Chapter 159G of the General Statutes shall be the primary consideration
14 in granting and loaning funds, great emphasis shall also be placed on the creation of
15 efficient systems of regional wastewater disposal and regional water supply; and the
16 willingness and ability of local government units to meet their responsibilities through
17 sound fiscal policies, creative planning, and efficient operation and management.

18 Sec. 3. Definitions.

19 As used in this act, unless the context otherwise requires:

- 20 (1) " Bonds" means bonds issued under this act.
- 21 (2) " Clean Water Revolving Loan and Grant Fund" means the Clean
22 Water Revolving Loan and Grant Fund as defined in the Clean Water
23 Revolving Loan and Grant Fund Act.
- 24 (3) " Clean Water Revolving Loan and Grant Fund Act" means Chapter
25 796 of the 1987 Session Laws, as the same may be amended from time
26 to time, which, as codified appears as Chapter 159G of the General
27 Statutes.
- 28 (4) " Cost" means without intending thereby to limit or restrict any proper
29 definition of such word in financing the cost of facilities or purposes
30 authorized by this act:
- 31 a. The cost of constructing, reconstructing, enlarging, acquiring
32 and improving facilities, and acquiring equipment and land
33 therefor,
- 34 b. The cost of engineering, architectural, and other consulting
35 services as may be required,
- 36 c. Administrative expenses and charges,
- 37 d. The cost of bond insurance, investment contracts, credit
38 enhancement and liquidity facilities, interest-rate swap
39 agreements, financial and legal consultants, and related costs of
40 bond and note issuance, to the extent and as determined by the
41 State Treasurer, and
- 42 e. Any other costs and expenses necessary or incidental to the
43 purposes of this act.

- 1 (5) "Credit facility" means an agreement entered into by the State
2 Treasurer on behalf of the State with a bank, savings and loan
3 association or other banking institution, an insurance company,
4 reinsurance company, surety company or other insurance institution, a
5 corporation, investment banking firm or other investment institution,
6 or any financial institution or other similar provider of a credit facility,
7 which provider may be located within or without the United States of
8 America, such agreement providing for prompt payment of all or any
9 part of the principal or purchase price (whether at maturity,
10 presentment or tender for purchase, redemption or acceleration),
11 redemption premium, if any, and interest on any bonds or notes
12 payable on demand or tender by the owner, in consideration of the
13 State agreeing to repay the provider of the credit facility in accordance
14 with the terms and provisions of such agreement.
- 15 (6) "Local government units" means local government units as defined in
16 the Clean Water Revolving Loan and Grant Fund Act.
- 17 (7) "Notes" means notes issued under this act.
- 18 (8) "Par formula" means any provision or formula adopted by the State to
19 provide for the adjustment, from time to time, of the interest rate or
20 rates borne by any bonds or notes, including:
- 21 a. A provision providing for such adjustment so that the purchase
22 price of such bonds or notes in the open market would be as
23 close to par as possible,
- 24 b. A provision providing for such adjustment based upon a
25 percentage or percentages of a prime rate or base rate, which
26 percentage or percentages may vary or be applied for different
27 periods of time, or
- 28 c. Such other provision as the State Treasurer may determine to be
29 consistent with this act and will not materially and adversely
30 affect the financial position of the State and the marketing of
31 bonds or notes at a reasonable interest cost to the State.
- 32 (9) "State" means the State of North Carolina.
- 33 (10) "Water supply systems" means water supply systems as defined in the
34 Clean Water Revolving Loan and Grant Act.
- 35 (11) "Wastewater collection systems" means wastewater collection
36 systems as defined in the Clean Water Revolving Loan and Grant Act.
- 37 (12) "Wastewater treatment works" means wastewater treatment works as
38 defined in the Clean Water Revolving Loan and Grant Act.
- 39 (13) "Water Pollution Control Revolving Fund" means the fund described
40 by G.S. 159G-4(a) and G.S. 159G-5(c).

41 Sec. 4. Authorization of bonds and notes.

42 Subject to a favorable vote of a majority of the qualified voters of the State
43 who vote on the question of issuing clean water bonds in the election called and held as
44 hereinafter provided, the State Treasurer is hereby authorized, by and with the consent

1 of the Council of State, to issue and sell, at one time or from time to time, general
2 obligation bonds of the State to be designated "State of North Carolina Clean Water
3 Bonds", with such additional designations as may be determined to indicate the issuance
4 of bonds from time to time, or notes of the State as herein provided, in an aggregate
5 principal amount not exceeding one hundred twenty million dollars (\$120,000,000) for
6 the purpose of providing funds, with any other available funds, for the purposes
7 authorized in this act.

8 Sec. 5. Use and allocation of bond and note proceeds.

9 (a) Revolving loans and grants.

10 The sum of twenty million dollars (\$20,000,000) of the proceeds of bonds
11 and notes shall be used and allocated for the same purposes for which funds in the Clean
12 Water Revolving Loan and Grant Fund may be used including, without limitation, to
13 provide funds to be used to make revolving loans and grants to local government units.
14 The revolving loans and grants shall be made for the purpose of paying the cost of water
15 supply systems, wastewater collection systems, and wastewater treatment works. The
16 first priority for use of proceeds shall be to provide the State funds necessary to match
17 the full amount of federal wastewater assistance funds deposited into the Water
18 Pollution Control Revolving Fund that are available to the State from year to year,
19 unless the General Assembly has provided other funds for that purpose, in which event
20 such priority shall cease to exist to the extent of the availability of such other funds.
21 The proceeds may be (i) transferred directly to the Clean Water Revolving Loan and
22 Grant Fund to make revolving loans or grants, or (ii) used to make revolving loans or
23 grants directly to the appropriate local government qualifying for a revolving loan or
24 grant from the Clean Water Revolving Loan and Grant Fund, or (iii) used for any
25 combination of (i) and (ii), or (iv) used in such other manner as shall effectuate the
26 purposes of this act.

27 The proceeds of bonds and notes, including premium thereon, if any, except
28 the proceeds of bonds the issuance of which has been anticipated by bond anticipation
29 notes or the proceeds of refunding bonds or notes, shall be placed by the State Treasurer
30 in a special fund to be designated the "State Clean Water Bond Fund", which may
31 include such appropriate special accounts therein as may be determined by the State
32 Treasurer, and shall be disbursed as provided in this act.

33 Revolving loans or grants requiring the use of proceeds of the sale of bonds
34 or bond anticipation notes shall not be made in an aggregate amount exceeding twenty
35 million dollars (\$20,000,000) in the first fiscal year, beginning July 1, 1994.

36 (b) Loans.

37 The sum of one hundred million dollars (\$100,000,000) of the proceeds of
38 bonds and notes shall be used and allocated for loans to local government units for the
39 same purposes for which funds in the Clean Water Revolving Loan and Grant Fund may
40 be used. Repayments of the loans shall be used to pay, directly or indirectly, debt
41 service on the bonds and notes issued. Repayments shall be initially placed into such
42 fund or account as may be determined by the State Treasurer for the purpose of
43 determining compliance with applicable requirements of the federal tax law and shall be
44 expended and disbursed therefrom under the direction and supervision of the Director of

1 the Budget. The loans shall be made for the purpose of paying the cost of water supply
2 systems, wastewater collection systems, and wastewater treatment works. The proceeds
3 may be used to make loans directly to local government units qualifying for a loan from
4 the Clean Water Revolving Loan and Grant Fund or used in such other manner as shall
5 effectuate the purposes of this act. The proceeds of bonds and notes shall be allocated
6 between wastewater and water supply purposes in the same percentages as established
7 in G.S. 159G-4, except that no allocation shall be made as a State match of any federal
8 funds deposited into the Water Pollution Control Revolving Fund.

9 Loans requiring the use of proceeds of the sale of bonds or bond anticipation
10 notes shall not be made in an aggregate amount exceeding twenty-five million dollars
11 (\$25,000,000) in the first fiscal year, beginning July 1, 1994, or in an aggregate amount
12 exceeding fifty million dollars (\$50,000,000) in the first two fiscal years, or in an
13 aggregate amount exceeding seventy-five million dollars (\$75,000,000) in the first three
14 fiscal years, or in an aggregate amount exceeding one hundred million dollars
15 (\$100,000,000) in the first four fiscal years.

16 The proceeds of bonds and notes, including premium thereon, if any, except
17 the proceeds of bonds the issuance of which has been anticipated by bond anticipation
18 notes or the proceeds of refunding bonds or notes, shall be placed by the State Treasurer
19 in a special fund to be designated the "State Clean Water Bond Fund", which may
20 include such appropriate special accounts therein as may be determined by the State
21 Treasurer, and shall be disbursed as provided in this act.

22 Sec. 6. Allocation of proceeds of bonds and notes.

23 The proceeds of the bonds and notes in the State Clean Water Bond Fund
24 shall be allocated and expended as provided in this act.

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

31 The proceeds of bonds and notes may be used with any other moneys made
32 available by the General Assembly for making loans authorized by this act, including
33 the proceeds of any other State bond issues, whether heretofore made available or which
34 may be made available at the session of the General Assembly at which this act is
35 ratified or any subsequent sessions. The proceeds of bonds and notes shall be expended
36 and disbursed under the direction and supervision of the Director of the Budget. The
37 funds provided by this act shall be disbursed for the purposes provided in this act upon
38 warrants drawn on the State Treasurer by the State Controller, which warrants shall not
39 be drawn until requisition has been approved by the Director of the Budget and which
40 requisition shall be approved only after full compliance with the Executive Budget Act,
41 Article 1 of Chapter 143 of the General Statutes, as it may be amended from time to
42 time.

43 Sec. 7. Election.

1 The question of the issuance of the one hundred twenty million dollar
2 (\$120,000,000) North Carolina Clean Water Bonds shall be submitted to the qualified
3 voters of the State at an election to be held on **(ELECTION DATE)**. Any other
4 primary, election or referendum validly called or scheduled by law at the time the
5 election on the bond question provided for in this section is held may be held as called
6 or scheduled. Notice of the election on the bond question shall be given by publication
7 twice in a newspaper or newspapers having general circulation in each county in the
8 State, and the election and the registration of voters therefor shall be held under and in
9 accordance with the general laws of the State. Absentee ballots shall be authorized in
10 the election.

11 The State Board of Elections shall reimburse the counties of the State for all
12 necessary expenses incurred in holding the election which are in addition to those which
13 would have otherwise been incurred, the same to be paid out of the Contingency and
14 Emergency Fund or other funds available to the State Board of Elections.

15 Voting machines may be used in accordance with the rules and regulations
16 prescribed by the State Board of Elections. The State Board of Elections may also
17 cause to be printed and distributed, to the extent necessary, ballots for use in the
18 election. The bond question to be used in the voting machines and any ballots shall be
19 in substantially the following form:

20 "[] FOR the issuance of one hundred twenty million dollars
21 (\$120,000,000) State of North Carolina Clean Water Bonds
22 constituting general obligation bonds of the State secured by a pledge
23 of the faith and credit and taxing power of the State for the purpose of
24 providing funds, with any other available funds, to make revolving
25 loans and grants and to make loans to assist local government units in
26 paying the cost of clean water projects.
27

28 [] AGAINST the issuance of one hundred twenty million dollars
29 (\$120,000,000) State of North Carolina Clean Water Bonds
30 constituting general obligation bonds of the State secured by a pledge
31 of the faith and credit and taxing power of the State for the purpose of
32 providing funds, with any other available funds, to make revolving
33 loans and grants and to make loans to assist local government units in
34 paying the cost of clean water projects."

35 If a majority of those voting on the bond question in the election shall vote in
36 favor of the issuance of the bonds, such bonds may be issued as herein provided. If a
37 majority of those voting on the bond question in the election shall vote against the
38 issuance of the bonds, such bonds shall not be issued.

39 The results of the election shall be canvassed and declared as provided by law
40 for the holding of elections for State officers and the results thereof certified by the
41 State Board of Elections to the Secretary of State, in the manner and at the time
42 provided by the general election laws of the State.

43 Sec. 8. Issuance of bonds and notes.

44 (a) Terms and conditions.

1 Bonds or notes may bear such date or dates, may be serial or term bonds or
2 notes, or any combination thereof, may mature in such amounts and at such time or
3 times, not exceeding 40 years from their date or dates, may be payable at such place or
4 places, either within or without the United States of America, in such coin or currency
5 of the United States of America as at the time of payment is legal tender for payment of
6 public and private debts, may bear interest at such rate or rates, which may vary from
7 time to time, and may be made redeemable before maturity, at the option of the State or
8 otherwise as may be provided by the State, at such price or prices, including a price less
9 than the face amount of the bonds or notes, and under such terms and conditions, all as
10 may be determined by the State Treasurer, by and with the consent of the Council of
11 State.

12 (b) Signatures; form and denomination; registration.

13 Bonds or notes may be issued as certificated or uncertificated obligations. If
14 issued as certificated obligations, bonds or notes shall be signed on behalf of the State
15 by the Governor or shall bear his facsimile signature, shall be signed by the State
16 Treasurer or shall bear his facsimile signature, and shall bear the Great Seal of the State
17 or a facsimile thereof shall be impressed or imprinted thereon. If bonds or notes bear
18 the facsimile signatures of the Governor and the State Treasurer, the bonds or notes
19 shall also bear a manual signature which may be that of a bond registrar, trustee, paying
20 agent or designated assistant of the State Treasurer. Should any officer whose signature
21 or facsimile signature appears on bonds or notes cease to be such officer before the
22 delivery of the bonds or notes, the signature or facsimile signature shall nevertheless
23 have the same validity for all purposes as if the officer had remained in office until
24 delivery and bonds or notes may bear the facsimile signatures of persons who at the
25 actual time of the execution of the bonds or notes shall be the proper officers to sign any
26 bond or note although at the date of the bond or note such persons may not have been
27 such officers. The form and denomination of bonds or notes, including the provisions
28 with respect to registration of the bonds or notes and any system for their registration,
29 shall be as the State Treasurer may determine in conformity with this act; provided,
30 however, that nothing in this act shall prohibit the State Treasurer from proceeding, with
31 respect to the issuance and form of the bonds or notes, under the provisions of Chapter
32 159E of the General Statutes, the Registered Public Obligations Act, as said Chapter
33 may be amended from time to time, as well as under this act.

34 (c) Manner of sale; expenses.

35 Subject to determination by the Council of State as to the manner in which
36 bonds or notes shall be offered for sale, whether at public or private sale, whether within
37 or without the United States of America and whether by publishing notices in certain
38 newspapers and financial journals, mailing notices, inviting bids by correspondence,
39 negotiating contracts of purchase, or otherwise, the State Treasurer is authorized to sell
40 bonds or notes at one time or from time to time at such rate or rates of interest, which
41 may vary from time to time, and at such price or prices, including a price less than the
42 face amount of the bonds or notes, as the State Treasurer may determine. All expenses
43 incurred in the preparation, sale and issuance of bonds or notes shall be paid by the
44 State Treasurer from the proceeds of bonds or notes or other available moneys.

1 (d) Notes; repayment.

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

6 a. For anticipating the sale of bonds to the issuance of which the
7 Council of State shall have given consent, if the State Treasurer
8 shall deem it advisable to postpone the issuance of the bonds;

9 b. For the payment of interest on or any installment of principal of
10 any bonds then outstanding, if there shall not be sufficient funds
11 in the State treasury with which to pay the interest or
12 installment of principal as they respectively become due;

13 c. For the renewal of any loan evidenced by notes herein
14 authorized;

15 d. For the purposes authorized in this act; and

16 e. For refunding bonds or notes as herein authorized.

17 (2) Funds derived from the sale of bonds or notes may be used in the
18 payment of any bond anticipation notes issued under this act. Funds
19 provided by the General Assembly for the payment of interest on or
20 principal of bonds shall be used in paying the interest on or principal
21 of any notes and any renewals thereof, the proceeds of which shall
22 have been used in paying interest on or principal of the bonds.

23 (e) Refunding bonds and notes.

24 By and with the consent of the Council of State, the State Treasurer is
25 authorized to issue and sell refunding bonds and notes pursuant to the provisions of the
26 State Refunding Bond Act for the purpose of refunding bonds or notes issued pursuant
27 to this act. The refunding bonds and notes may be combined with any other issues of
28 State bonds and notes similarly secured.

29 (f) Tax exemption.

30 Bonds and notes shall be exempt from all State, county, and municipal
31 taxation or assessment, direct or indirect, general or special, whether imposed for the
32 purpose of general revenue or otherwise, excluding inheritance and gift taxes. The gain
33 from the transfer of bonds and notes shall be exempt from State income taxation to the
34 same extent as gain from the transfer of federal obligations. The interest on bonds and
35 notes shall not be subject to taxation as to income, nor shall the bonds and notes be
36 subject to taxation when constituting a part of the surplus of any bank, trust company, or
37 other corporation.

38 (g) Investment eligibility.

39 Bonds and notes are hereby made securities in which all public officers,
40 agencies, and public bodies of the State and its political subdivisions, all insurance
41 companies, trust companies, investment companies, banks, savings banks, savings and
42 loan associations, credit unions, pension or retirement funds, other financial institutions
43 engaged in business in the State, executors, administrators, trustees, and other
44 fiduciaries may properly and legally invest funds, including capital in their control or

1 belonging to them. Bonds and notes are hereby made securities which may properly
2 and legally be deposited with and received by any officer or agency of the State or
3 political subdivision of the State for any purpose for which the deposit of bonds, notes,
4 or obligations of the State or any political subdivision is now or may hereafter be
5 authorized by law.

6 (h) Faith and credit.

7 The faith and credit and taxing power of the State are hereby pledged for the
8 payment of the principal of and the interest on bonds and notes.

9 Sec. 9. Variable interest rates.

10 In fixing the details of bonds and notes, the State Treasurer may provide that
11 any of the bonds or notes may:

12 (1) Be made payable from time to time on demand or tender for purchase
13 by the owner thereof provided a credit facility supports the bonds or
14 notes, unless the State Treasurer specifically determines that a credit
15 facility is not required upon a finding and determination by the State
16 Treasurer that the absence of a credit facility will not materially and
17 adversely affect the financial position of the State and the marketing of
18 the bonds or notes at a reasonable interest cost to the State;

19 (2) Be additionally supported by a credit facility;

20 (3) Be made subject to redemption or a mandatory tender for purchase
21 prior to maturity;

22 (4) Bear interest at a rate or rates that may vary for such period or periods
23 of time, all as may be provided in the proceedings providing for the
24 issuance of the bonds or notes, including, without limitation, such
25 variations as may be permitted pursuant to a par formula; and

26 (5) Be made the subject of a remarketing agreement whereby an attempt is
27 made to remarket bonds or notes to new purchasers prior to their
28 presentment for payment to the provider of the credit facility or to the
29 State.

30 If the aggregate principal amount repayable by the State under a credit facility
31 is in excess of the aggregate principal amount of bonds or notes secured by the credit
32 facility, whether as a result of the inclusion in the credit facility of a provision for the
33 payment of interest for a limited period of time or the payment of a redemption
34 premium or for any other reason, then the amount of authorized but unissued bonds or
35 notes during the term of such credit facility shall not be less than the amount of such
36 excess, unless the payment of such excess is otherwise provided for by agreement of the
37 State executed by the State Treasurer.

38 Sec. 10. Interpretation of act.

39 (a) Additional method.

40 The foregoing sections of this act shall be deemed to provide an additional
41 and alternative method for the doing of the things authorized thereby and shall be
42 regarded as supplemental and additional to powers conferred by other laws, and shall
43 not be regarded as in derogation of any powers now existing.

44 (b) Statutory references.

1 References in this act to specific sections or Chapters of the General Statutes
2 or to specific acts are intended to be references to such sections, Chapters, or acts as
3 they may be amended from time to time by the General Assembly.

4 (c) Liberal construction.

5 This act, being necessary for the health and welfare of the people of the State,
6 shall be liberally construed to effect the purposes thereof.

7 (d) Inconsistent provisions.

8 Insofar as the provisions of this act are inconsistent with the provisions of any
9 general laws, or parts thereof, the provisions of this act shall be controlling.

10 (e) Severability.

11 If any provision of this act or the application thereof to any person or
12 circumstance is held invalid, such invalidity shall not affect other provisions or
13 applications of the act which can be given effect without the invalid provision or
14 application, and to this end the provisions of this act are declared to be severable.

15 Sec. 11. Effective date.

16 This act is effective upon ratification.