

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005

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SENATE DRS55308-LYx-290 (2/21)

Short Title: Clean Water Bond Act of 2006.

(Public)

Sponsors: Senator Kerr.

Referred to:

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE THE ISSUANCE OF GENERAL OBLIGATION BONDS OF THE STATE, SUBJECT TO A VOTE OF THE QUALIFIED VOTERS OF THE STATE, TO ADDRESS STATEWIDE CRITICAL INFRASTRUCTURE NEEDS BY PROVIDING FUNDS FOR GRANTS AND LOANS FOR WASTEWATER AND DRINKING WATER PROJECTS.

The General Assembly of North Carolina enacts:

SECTION 1. This act is entitled "The Clean Water Bonds Act of 2006."

SECTION 2. Authorization of bonds and notes. – Subject to a favorable vote of a majority of the qualified voters of the State who vote on the question of issuing Clean Water Bonds in the election called and held as provided in this act, the State Treasurer is hereby authorized, by and with the consent of the Council of State, to issue and sell, at one time or from time to time, general obligation bonds of the State to be designated "State of North Carolina Clean Water Bonds," with any additional designations as may be determined to indicate the issuance of bonds from time to time, or notes of the State as provided in this act, in an aggregate principal amount not exceeding one billion dollars (\$1,000,000,000) for the purpose of providing funds, with any other available funds, for the purposes authorized in this act. No more than an aggregate amount of two hundred million dollars (\$200,000,000) of bonds may be issued under this act before July 1, 2007. No more than an aggregate amount of four hundred million dollars (\$400,000,000) of bonds may be issued under this act before July 1, 2008. No more than an aggregate amount of six hundred million dollars (\$600,000,000) of bonds may be issued under this act before July 1, 2009. No more than an aggregate amount of eight hundred million dollars (\$800,000,000) of bonds may be issued under this act before July 1, 2010.

SECTION 3. Definitions. As used in this act, unless the context otherwise requires:

- 1 (1) "Bond rating" means the numerical rating of a unit of local
2 government developed by the NCMC. The rating formula is based on
3 100 being a theoretically "perfect" unit of local government and is an
4 assessment of the creditworthiness of the unit. Units of local
5 government with a rating below 75 or with no ratings have limited, if
6 any, access to the private markets for financing water and sewer or
7 other debt.
- 8 (2) "Bonds" means bonds issued under this act.
- 9 (3) "Credit facility" means an agreement entered into by the State
10 Treasurer on behalf of the State with a bank, savings and loan
11 association, or other banking institution, an insurance company,
12 reinsurance company, surety company, or other insurance institution, a
13 corporation, investment banking firm, or other investment institution,
14 or any financial institution or other similar provider of a credit facility,
15 which provider may be located within or without the United States of
16 America, such agreement providing for prompt payment of all or any
17 part of the principal or purchase price (whether at maturity,
18 presentment or tender for purchase, redemption, or acceleration),
19 redemption premium, if any, and interest on any bonds or notes
20 payable on demand or tender by the owner, in consideration of the
21 State agreeing to repay the provider of the credit facility in accordance
22 with the terms and provisions of such agreement.
- 23 (4) "NCMC" means the North Carolina Municipal Council, Inc., a
24 nonprofit North Carolina corporation which provides bond ratings, or
25 any successor thereto. In the event such corporation dissolves or no
26 longer performs the functions contemplated herein, such term shall
27 mean that comparable corporation designated by the State Treasurer.
- 28 (5) "Notes" means notes issued under this act.
- 29 (6) "Par formula" means any provision or formula adopted by the State to
30 provide for the adjustment, from time to time, of the interest rate or
31 rates borne by any bonds or notes, including:
- 32 a. A provision providing for such adjustment so that the purchase
33 price of such bonds or notes in the open market would be as
34 close to par as possible,
- 35 b. A provision providing for such adjustment based upon a
36 percentage or percentages of a prime rate or base rate, which
37 percentage or percentages may vary or be applied for different
38 periods of time, or
- 39 c. Such other provision as the State Treasurer may determine to be
40 consistent with this act and will not materially and adversely
41 affect the financial position of the State and the marketing of
42 bonds or notes at a reasonable interest cost to the State.
- 43 (7) "State" means the State of North Carolina.

1 **SECTION 4.** Use of bond proceeds. – The proceeds of the Clean Water
2 Bonds shall be used as provided in this section. The General Assembly may increase or
3 decrease the allocations provided for in this section so long as the aggregate amount of
4 the allocations does not exceed the amount authorized under Section 2 of this act. The
5 proceeds of the Clean Water Bonds shall first be used to meet the State match
6 requirement for federal funds for wastewater projects and public water systems. The
7 remaining proceeds of Clean Water Bonds shall be used as follows:

- 8 (1) Forty-eight percent (48%) of the proceeds of each issuance of Clean
9 Water Bonds shall be used in the same manner as funds appropriated
10 to the Rural Center Reserve Fund established under G.S. 159G-22.
- 11 (2) Twenty-four percent (24%) of the proceeds of each issuance of Clean
12 Water Bonds shall be used in the same manner as funds appropriated
13 to the Wastewater Reserve established under G.S. 159G-22 with the
14 condition that any funds awarded to a nonprofit water corporation shall
15 be in the form of a grant rather than a loan.
- 16 (3) Twenty-four percent (24%) of the proceeds of each issuance of Clean
17 Water Bonds shall be used in the same manner as funds appropriated
18 to the Drinking Water Reserve established under G.S. 159G-22 with
19 the condition that any funds awarded to a nonprofit water corporation
20 shall be in the form of a grant rather than a loan.
- 21 (4) Four percent (4%) of the proceeds of each issuance of Clean Water
22 Bonds shall be used in the same manner as funds appropriated to the
23 Clean Water Management Trust Fund established under
24 G.S. 113A-253 to finance stormwater quality projects.

25 **SECTION 5.(a)** G.S. 159G-20 reads as rewritten:

26 "**§ 159G-20. Definitions.**

27 The following definitions apply in this Chapter:

28 ...

- 29 (13) Local government unit. – Any of the following:
 - 30 a. A city as defined in G.S. 160A-1.
 - 31 b. A county.
 - 32 c. A consolidated city-county as defined in G.S. 160B-2.
 - 33 d. A county water and sewer district created pursuant to Article 6
34 of Chapter 162A of the General Statutes.
 - 35 e. A metropolitan sewerage district or a metropolitan water district
36 created pursuant to Article 4 of Chapter 162A of the General
37 Statutes.
 - 38 f. A water and sewer authority created under Article 1 of Chapter
39 162A of the General Statutes.
 - 40 g. A sanitary district created pursuant to Part 2 of Article 2 of
41 Chapter 130A of the General Statutes.
 - 42 h. A joint agency created pursuant to Part 1 of Article 20 of
43 Chapter 160A of the General Statutes.

- i. A joint agency that was created by agreement between two cities and towns to operate an airport pursuant to G.S. 63-56 and that provided drinking water and wastewater services off the airport premises before 1 January 1995.
- j. For the purpose of obtaining a planning grant, a regional council of government organized under G.S. 160A-460 or a regional planning and development commission organized under G.S. 153A-391.

...

- (16) Rural Center. – The Rural Economic Development Center, Inc., a nonprofit North Carolina corporation.
- (17) Rural Center Reserve. – The Rural Center Reserve established in G.S. 159G-22 as an account in the Water Infrastructure Fund."

SECTION 5.(b) G.S. 159G-21 reads as rewritten:

"§ 159G-21. Revenue for water projects.

This Chapter governs the use of the following revenue:

- (1) Revenue appropriated to the Department to match federal funds received for loans and grants for wastewater and drinking water projects and revenue received by the Department from the repayment of loans made with the use of the federal funds.
- (2) Revenue appropriated to the Department to provide a source of State funds to make loans and grants for wastewater and drinking water projects and revenue received by the Department from the repayment of loans made with the use of these funds.
- (3) Revenue appropriated to the Rural Center to make grants for wastewater and drinking water projects."

SECTION 5.(c) G.S. 159G-22 is amended by adding a new subsection to read:

"(h) Rural Center Reserve. – The Rural Center Reserve is established as an account within the Water Infrastructure Fund. The Account is established to receive funds that are to be used by the Rural Center for grants for public water systems and for publicly owned wastewater collection systems and wastewater treatment works. Revenue in the Rural Center Reserve remains in the Reserve until disbursed for a grant under Article 3 of this Chapter."

SECTION 5.(d) G.S. 159G-23 reads as rewritten:

"§ 159G-23. Common criteria for loan or grant from Wastewater Reserve ~~or Reserve, Drinking Water Reserve-Reserve, or Rural Center Reserve.~~

The criteria in this section apply to a loan or grant from the Wastewater Reserve ~~or Reserve~~, the Drinking Water Reserve-Reserve, or the Rural Center Reserve. The Division of Water ~~Quality and Quality~~, the Division of Environmental ~~Health-Health~~, and the Rural Center must each establish a system of assigning points to applications based on the ~~following criteria:~~ criteria listed in this section. Point assignment by a Division and by the Rural Center may differ, but the Division and the Rural Center must apply all the criteria in evaluating applications.

1 ..."

2 SECTION 5.(e) G.S. 159G-24 reads as rewritten:

3 "**§ 159G-24. Fee imposed on a loan or grant from Wastewater Reserve or Reserve,**
4 **Drinking Water Reserve, Reserve, or Rural Center Reserve.**

5 (a) Amount. – A loan awarded from the Wastewater Reserve or the Drinking
6 Water Reserve is subject to a fee of two and one-half percent (2 ½%) of the loan. A
7 grant awarded from the Wastewater ~~Reserve or Reserve~~, the Drinking Water ~~Reserve~~
8 Reserve, or the Rural Center Reserve is subject to a fee of one and one-half percent (1
9 ½%) of the grant. The fee is payable when a loan or grant is awarded.

10 (b) Departmental Receipt. – The fee on a loan from the Wastewater Reserve or
11 the Drinking Water Reserve is a departmental receipt and must be applied to the
12 Department's and the Local Government Commission's costs in administering loans
13 from these Reserves. The Department and the Local Government Commission must
14 determine how to allocate the fee receipts between their agencies. The fee on a grant
15 from the Wastewater Reserve or the Drinking Water Reserve is a departmental receipt
16 of the Department and must be applied to the Department's costs in administering grants
17 from these Reserves.

18 (c) Rural Center. – The fee on a grant from the Rural Center Reserve is
19 appropriated to the Rural Center. The fee must be applied to the Rural Center's costs in
20 administering grants from the Rural Center Reserve."

21 SECTION 5.(f) G.S. 159G-26 reads as rewritten:

22 "**§ 159G-26. Annual reports on Water Infrastructure Fund.**

23 (a) Requirement. – The Department must publish a report each year on the
24 accounts in the Water Infrastructure Fund that are administered by the Division of
25 Water Quality or the Division of Environmental Health. The Rural Center must publish
26 a report each year on the Rural Center Reserve. The ~~report~~ reports must be published by
27 1 November of each year and cover the preceding fiscal year. The Department and the
28 Rural Center must make the ~~report~~ reports available to the public and must give a copy
29 of the ~~report~~ reports to the Environmental Review Commission and the Fiscal Research
30 Division of the General Assembly.

31 (b) Content. – The ~~report~~ reports required by this section must contain the
32 following information concerning the accounts of the Water Infrastructure Fund:

- 33 (1) The beginning and ending balance of the account for the fiscal year.
- 34 (2) The amount of revenue credited to the account during the fiscal year,
35 by source.
- 36 (3) The total amount of loans and grants awarded from the account, by
37 type, and the amount of any expenditure for emergency corrective
38 action made from the account.
- 39 (4) For each loan or grant awarded, the recipient of the award, the amount
40 of the award, the amount of the award that was disbursed, and the
41 amount of the award remaining to be disbursed in a subsequent fiscal
42 year.

1 (5) The amount disbursed for loans and grants awarded but not disbursed
2 in a prior fiscal year and the amount remaining to be disbursed in a
3 subsequent fiscal year.

4 (6) An assessment of the expected impact on water quality and water
5 supply of the projects for which the loans and grants were awarded."

6 **SECTION 5.(g)** G.S. 159G-36(c) reads as rewritten:

7 "(c) Reserve Recipient Limit. – The following limits apply to a loan or grant made
8 from the Wastewater Reserve or the Drinking Water Reserve to the same local
9 government unit or nonprofit water corporation:

10 (1) The amount of loans awarded for a fiscal year may not exceed three
11 million ~~dollars—(\$3,000,000)-~~five hundred thousand dollars
12 (\$3,500,000).

13 (2) The amount of loans awarded for three consecutive fiscal years for
14 targeted interest rate projects may not exceed three million ~~dollars~~
15 ~~(\$3,000,000)-~~five hundred thousand dollars (\$3,500,000).

16 (3) The amount of high-unit-cost grants awarded for three consecutive
17 fiscal years may not exceed three million ~~dollars—(\$3,000,000)-~~five
18 hundred thousand dollars (\$3,500,000).

19 (4) The amount of technical assistance grants awarded for three
20 consecutive fiscal years may not exceed fifty thousand dollars
21 (\$50,000)."

22 **SECTION 5.(h)** Chapter 159G of the General Statutes is amended by adding
23 a new Article to read:

24 "Article 3.

25 "Water Infrastructure Grants Administered by Rural Center.

26 "**§ 159G-50. Definitions.**

27 The definitions in G.S. 159G-20 and the following definitions apply in this Article:

28 (1) Ability to pay. – An assessment of the ability of a local government
29 unit to pay for a water infrastructure project as calculated annually by
30 the Division of Community Assistance in the Department of
31 Commerce.

32 (2) Economically distressed area. – Any of the following:

33 a. An economically distressed county as defined in
34 G.S. 143B-437.01.

35 b. That part of a county in which the poverty rate is at least one
36 hundred fifty percent (150%) of the State poverty rate. The
37 poverty rate is the percentage of the population whose income
38 is below the most recent federal poverty level set by the U.S.
39 Bureau of the Census.

40 c. That part of a county that experiences an actual or imminent
41 loss of jobs in a number equal to or greater than five percent
42 (5%) of the total number of jobs in the part.

- 1 (3) Rural county. – A county with a population density of fewer than 250
2 people per square mile based on the most recent federal decennial
3 census.

4 **"§ 159G-51. Management of Rural Center Reserve.**

5 The Rural Center administers grants from the Rural Center Reserve. The Rural
6 Center must use one-half of the revenue credited to the Rural Center Reserve under
7 G.S. 159G-21 for grants for wastewater collection system projects, wastewater
8 treatment works projects, and planning for those projects. The Rural Center must use
9 one-half of the revenue credited to the Rural Center Reserve under G.S. 159G-21 for
10 public water system projects.

11 **"§ 159G-52. Entities and projects eligible for grants.**

12 (a) Entities. – Only a local government unit is eligible for a grant from the Rural
13 Center Reserve. A local government unit must meet the eligibility requirements
14 established for a type of grant to be eligible for it.

15 (b) Projects. – The Rural Center is authorized to make grants from the Rural
16 Center Reserve for the following types of projects:

- 17 (1) Wastewater collection system.
18 (2) Wastewater treatment works.
19 (3) Public water system.
20 (4) Wastewater and drinking water infrastructure planning.

21 **"§ 159G-53. Grants available from Rural Center Reserve.**

22 (a) Types. – The Rural Center is authorized to make the types of grants listed in
23 this section from the Rural Center Reserve. Each type of grant must be administered
24 through a separate account within the Rural Center Reserve. The Rural Center is not
25 authorized to make loans from the Rural Center Reserve.

26 (b) Planning Grant. – A grant is available for the costs associated with
27 preliminary planning for wastewater collection system projects, wastewater treatment
28 works projects, and public water system projects. Preliminary planning includes
29 developing a capital improvement plan, developing a comprehensive land-use plan,
30 conducting a study, assembling a financing plan, completing a grant application, and
31 preparing a preliminary engineering report for a proposed project. A planning grant is
32 subject to the following restrictions:

- 33 (1) Eligibility. – A local government unit is eligible for a planning grant if
34 it meets at least one of the following criteria:
35 a. It is a rural county or is located in a rural county.
36 b. It is an economically distressed county or is located in an
37 economically distressed county or an economically distressed
38 area.
39 c. Its plan is a regional plan involving two or more units of local
40 government each of which is either a local government that
41 satisfies the condition of either sub-subdivision a. or b. of this
42 subdivision or a municipality with a population of less than
43 10,000 that is not in a rural county and at least one of which is a

- 1 local government that satisfies the condition of either
2 sub-subdivision a. or b. of this subdivision.
- 3 (2) Maximum. – A planning grant may not exceed forty thousand dollars
4 (\$40,000) for each unit of local government.
- 5 (3) Matching funds. – A local government unit must match a planning
6 grant on a dollar-for-dollar basis unless the unit meets all of the
7 following descriptions. If it meets these descriptions, the Rural Center
8 may require a match of less than fifty percent (50%) or provide that no
9 match is required.
- 10 a. It is an economically distressed county or located in an
11 economically distressed county.
- 12 b. Its poverty rate is at least one hundred fifty percent (150%) of
13 the State poverty rate.
- 14 c. If it is not a county, its ability to pay is less than fifty percent
15 (50%) of the ability to pay of the county in which it is located.
- 16 (c) Supplemental Grant. – A grant is available to match other funds to be applied
17 to the construction costs of a project. Other funds include federal funds, State funds
18 received under Article 2 of this Chapter, and local funds. A supplemental grant is
19 subject to the following restrictions:
- 20 (1) Eligibility. – A local government unit is eligible for a supplemental
21 grant if it meets the following criteria:
- 22 a. It is a rural county or is located in a rural county.
- 23 b. It adopts an ordinance that sets the household user fee for water
24 and sewer service in the area served by the project at an amount
25 that equals or exceeds the high-unit-cost threshold and that
26 becomes effective no later than the first day of the first month
27 after the completion date of the project.
- 28 (2) Maximum. – A supplemental grant may not exceed five hundred
29 thousand dollars (\$500,000).
- 30 (3) Matching funds. – A local government unit must match a supplemental
31 grant on a dollar-for-dollar basis unless the unit meets all of the
32 following descriptions. If it meets these descriptions, the Rural Center
33 may require a match of less than fifty percent (50%) or provide that no
34 match is required.
- 35 a. It is an economically distressed county or is located in an
36 economically distressed county.
- 37 b. Its poverty rate is at least one hundred fifty percent (150%) of
38 the State poverty rate.
- 39 c. If it is not a county, its ability to pay is less than fifty percent
40 (50%) of the ability to pay of the county in which it is located.
- 41 (d) Unserved Community Grant. – A grant is available to develop a public water
42 system or a publicly owned wastewater collection system or wastewater treatment
43 works. An unserved community grant is subject to the following restrictions:

- 1 (1) Eligibility. – A local government unit is eligible for an unserved
2 community grant if meets the following criteria:
3 a. It contains a community that is not served by a public water
4 system or a centralized, publicly owned wastewater collection
5 system or wastewater treatment works.
6 b. Its population does not exceed 5,000 based on the most recent
7 annual population estimates certified by the State Budget
8 Officer.
9 c. Its median household income does not exceed ninety percent
10 (90%) of the national median household income, based on data
11 from the most recent federal decennial census and updated by
12 the U.S. Department of Housing and Urban Development's
13 annual estimated income adjustment factors.
14 d. It adopts an ordinance that sets the household user fee for water
15 and sewer service in the area served by the project at an amount
16 that equals or exceeds the high-unit-cost threshold and that
17 becomes effective no later than the first day of the first month
18 after the completion date of the project.
19 e. It established that the system or works is financially feasible
20 with sufficient users and revenues to provide for operations,
21 maintenance, and a capital reserve.
22 (2) Maximum. – An unserved community grant may not exceed either of
23 the following:
24 a. Ninety percent (90%) of the costs of the project for which the
25 grant is awarded.
26 b. Three million five hundred thousand dollars (\$3,500,000) over
27 the period of three consecutive fiscal years.
28 (3) Matching funds. – A local government unit must match an unserved
29 community grant on a nine-to-one basis to provide an amount equal to
30 ten percent (10%) of the grant from the Rural Center. If a local
31 government unit satisfies all of the conditions listed in subdivision (3)
32 of subsection (c) of this section, the Rural Center may reduce or waive
33 the amount of the local match.

34 **"§ 159G-54. Criteria for grants.**

35 The common criteria in G.S. 159G-23, the criteria set out in this section, and any
36 other criteria established by the Board of Directors of the Rural Center apply to a grant
37 from the Rural Center Reserve. An application for a project that serves an economically
38 distressed area has priority over a project that does not.

39 **"§ 159G-55. Application.**

40 An application for a grant from the Rural Center Reserve must be submitted to the
41 Rural Center. An application must be submitted on a form prescribed by the Rural
42 Center and must contain the information required by the Rural Center. An applicant
43 must submit to the Rural Center any additional information requested by the Rural
44 Center to enable the Rural Center to make a determination on the application. An

1 application that does not contain information required on the application or requested by
2 the Rural Center is incomplete and is not eligible for consideration. An applicant may
3 submit an application in as many categories as it is eligible for consideration under this
4 Article.

5 **"§ 159G-56. Environmental assessment.**

6 An application submitted under this Article for any grant other than a water
7 infrastructure planning grant must state whether the project to be funded by the grant
8 requires an environmental assessment. If the application indicates that an environmental
9 assessment is not required, it must identify the exclusion in the North Carolina
10 Environmental Policy Act, Article 1 of Chapter 113A of the General Statutes that
11 applies to the project. An application that does not identify an exclusion in the North
12 Carolina Environmental Policy Act must include the environmental assessment of the
13 project's probable impacts on the environment.

14 **"§ 159G-57. Review of applications and award of grant.**

15 (a) Point Assignment. – The Rural Center must review all grant applications filed
16 under this Article for an application period and must rank each application in
17 accordance with the points assigned to the evaluation criteria. The Rural Center must
18 make a written determination of an application's rank and attach the determination to the
19 application. The Rural Center's determination of rank is conclusive.

20 (b) Reconsideration. – When an application's rank is too low to receive an award
21 of a grant for an application period, the Rural Center must include the application with
22 those considered for the next application period. If the application's rank is again too
23 low to receive an award, the application is not eligible for consideration in a subsequent
24 application period. An applicant whose application does not receive an award after
25 review in two application periods may file a new application.

26 (c) 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 must send
28 the applicant a letter of intent to award the grant. The notice must set out any conditions
29 the applicant must meet to receive an award of a grant. When the applicant satisfies the
30 conditions set out in the letter of intent, the Rural Center must send the applicant an
31 offer to award a grant. The applicant must give the Rural Center written notice of
32 whether it accepts or rejects the offer. A grant is considered awarded when an offer to
33 award the grant is issued.

34 **"§ 159G-58. Disbursement of grant.**

35 A planning grant awarded under this Article may be disbursed in one payment.
36 Other grants awarded under this Article must be disbursed in two or more payments
37 based on the progress of the project for which the grant was awarded. To obtain a
38 payment, a grant recipient must submit a request for payment to the Rural Center and
39 document the expenditures for which the payment is requested. The Rural Center must
40 review the payment request. If the Rural Center determines that payment is appropriate,
41 the Rural Center must submit to the State Treasurer a request for disbursement of the
42 payment amount to the grant recipient.

43 **"§ 159G-59. Withdrawal of grant.**

1 An award for a grant for a project is withdrawn if the applicant fails to enter into a
2 construction contract for the project within the required time set in this section. For a
3 supplemental grant, the required time is one year after the date of the award. For an
4 unserved community grant, the required time is 18 months after the date of the award. If
5 the Board of Directors of the Rural Center finds that the applicant has good cause for
6 the failure to meet the time requirement, the Rural Center may set another date by which
7 the applicant must take action or forfeit the grant. This section does not apply to a water
8 infrastructure planning grant.

9 **"§ 159G-60. Inspection of project.**

10 (a) Authority. – The Rural Center may inspect a project for which it awards a
11 grant under this Article to determine the progress made on the project and whether the
12 construction of the project is consistent with the project described in the grant
13 application. The inspection may be performed by personnel of the Rural Center or by a
14 professional engineer licensed under Chapter 89C of the General Statutes.

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

- 17 (1) Is an officer or employee of the local government unit that received the
18 grant award for the project.
19 (2) Is an owner, officer, employee, or agent of a contractor or
20 subcontractor engaged in the construction of the project for which the
21 grant was made."

22 **SECTION 5.(i)** G.S. 113A-252 reads as rewritten:

23 **"§ 113A-252. Definitions.**

24 The following definitions apply in this Article:

- 25 (1) Council. – The advisory council for the Clean Water Management
26 Trust Fund.
27 (2) Economically distressed local government unit. – An economically
28 distressed county, as defined in G.S. 105-129.3, or a local government
29 unit located in that county.
30 (3) Fund. – The Clean Water Management Trust Fund created pursuant to
31 this Article.
32 (4) Land. – Real property and any interest in, easement in, or restriction on
33 real property.
34 (4a) Local government unit. – Defined in G.S. 159G-20.
35 (4b) Stormwater quality project. – Defined in G.S. 159G-20.
36 (5) Trustees. – The trustees of the Clean Water Management Trust Fund.
37 ~~(6) Wastewater collection system. – Defined in G.S. 159G-20.~~
38 ~~(7) Wastewater treatment works. – Defined in G.S. 159G-20."~~

39 **SECTION 5.(j)** G.S. 113A-253(c) reads as rewritten:

40 "(c) Fund Purposes. – Moneys from the Fund are appropriated annually to finance
41 projects to clean up or prevent surface water pollution in accordance with this Article.
42 Revenue in the Fund may be used for any of the following purposes:

- 43 (1) To acquire land for riparian buffers for the purposes of providing
44 environmental protection for surface waters and urban drinking water

1 supplies and establishing a network of riparian greenways for
2 environmental, educational, and recreational uses and to retire debt
3 incurred for this purpose under Article 9 of Chapter 142 of the General
4 Statutes.

5 (2) To acquire conservation easements or other interests in real property
6 for the purpose of protecting and conserving surface waters and urban
7 drinking water supplies and to retire debt incurred for this purpose
8 under Article 9 of Chapter 142 of the General Statutes.

9 (3) To coordinate with other public programs involved with lands
10 adjoining water bodies to gain the most public benefit while protecting
11 and improving water quality and to retire debt incurred for this purpose
12 under Article 9 of Chapter 142 of the General Statutes.

13 (4) To restore previously degraded lands to reestablish their ability to
14 protect water quality and to retire debt incurred for this purpose under
15 Article 9 of Chapter 142 of the General Statutes.

16 ~~(5) To repair failing wastewater collection systems and wastewater
17 treatment works if the repair is a reasonable remedy for resolving an
18 existing waste treatment problem and the repair is not for the purpose
19 of expanding the system to accommodate future anticipated growth of
20 a community.~~

21 ~~(6) To repair and eliminate failing septic tank systems, to eliminate illegal
22 drainage connections, and to expand a wastewater collection system or
23 wastewater treatment works if the expansion eliminates failing septic
24 tank systems or illegal drainage connections.~~

25 (7) To finance stormwater quality projects.

26 (8) To facilitate planning that targets reductions in surface water pollution.

27 (9) To fund operating expenses of the Board of Trustees and its staff."

28 **SECTION 5.(k)** G.S. 113-254 reads as rewritten:

29 **"§ 113A-254. Grant requirements.**

30 (a) Eligible Applicants. – Any of the following are eligible to apply for a grant
31 from the Fund for the purpose of protecting and enhancing water quality:

32 (1) A State agency.

33 (2) A local government unit.

34 (3) A nonprofit corporation whose primary purpose is the conservation,
35 preservation, and restoration of our State's environmental and natural
36 resources.

37 (a1) Criteria. – The criteria developed by the Trustees under G.S. 113A-256 apply
38 to grants made under this Article. The common criteria for water projects set in
39 G.S. 159G-23 and the criteria set out in this section also apply to ~~wastewater collection
40 system projects, wastewater treatment works projects, and stormwater quality projects.~~
41 The common criteria set in G.S. 159G-23 have priority over the criteria set under this
42 Article for ~~wastewater collection system projects, wastewater treatment works projects,
43 and stormwater quality projects. An application for a wastewater collection system~~

1 ~~project or a wastewater treatment works project that serves an economically distressed~~
2 ~~local government unit has priority.~~

3 (b) Matching Requirement. – The Board of Trustees shall establish matching
4 requirements for grants awarded under this Article. The Board of Trustees may require a
5 match of up to twenty percent (20%) of the amount of the grant awarded. This
6 requirement may be satisfied by the donation of land to a public or private nonprofit
7 conservation organization as approved by the Board of Trustees. The Board of Trustees
8 may also waive the requirement to match a grant pursuant to guidelines adopted by the
9 Board of Trustees.

10 (c) Restriction. – No grant shall be awarded under this article to satisfy
11 compensatory mitigation requirements under 33 USC § 1344 or G.S. 143-214.11.

12 ~~(d) Wastewater Limits. – A wastewater collection system project or a wastewater~~
13 ~~treatment works project is eligible for a grant under this Article only if it is a~~
14 ~~high unit cost project, as defined in G.S. 159G-20. A grant made under this Article for a~~
15 ~~wastewater collection system project or a wastewater treatment works project is subject~~
16 ~~to the cost limits and recipient limits set in G.S. 159G-36 for a grant awarded from the~~
17 ~~Wastewater Reserve.~~

18 (e) Stormwater Limits. – The amount of a grant awarded under this Article for a
19 stormwater quality project may not exceed the construction costs of the project. The
20 total amount of grants awarded under this Article to the same recipient for stormwater
21 quality projects for a fiscal year may not exceed the limit set in G.S. 159G-36(c)(1) for
22 grants to the same recipient from the Wastewater Reserve.

23 (f) Withdrawal. – An award of a grant under this Article is withdrawn if the
24 grant recipient fails to enter into a construction contract for the project within one year
25 after the date of the award, unless the Trustees find that the applicant has good cause for
26 the failure. If the Trustees find good cause for a recipient's failure, the Trustees must set
27 a date by which the recipient must take action or forfeit the grant."

28 **SECTION 6.** Allocation of proceeds. – The proceeds of Clean Water Bonds
29 and notes, including premium thereon, if any, except the proceeds of bonds the issuance
30 of which has been anticipated by bond anticipation notes or the proceeds of refunding
31 bonds or notes, shall be placed by the State Treasurer in a special fund to be designated
32 "2006 Clean Water Bonds Fund", which may include such appropriate special accounts
33 therein as may be determined by the State Treasurer and shall be disbursed as provided
34 in this act. Moneys in the 2006 Clean Water Bonds Fund shall be allocated and
35 expended as provided in this act.

36 Any additional moneys which may be received by means of a grant or grants
37 from the United States of America or any agency or department thereof or from any
38 other source for deposit to the 2006 Clean Water Bonds Fund may be placed in the 2006
39 Clean Water Bonds Fund or in a separate account or fund and shall be disbursed, to the
40 extent permitted by the terms of the grant or grants, without regard to any limitations
41 imposed by this act.

42 Moneys in the 2006 Clean Water Bonds Fund or any separate clean water
43 fund or account established under this act may be invested from time to time by the
44 State Treasurer in the same manner permitted for investment of moneys belonging to

1 the State or held in the State treasury, except with respect to grant money to the extent
2 otherwise directed by the terms of the grant. Investment earnings, except investment
3 earnings with respect to grant moneys to the extent otherwise directed or restricted by
4 the terms of the grant, may be (i) credited to the 2006 Clean Water Bonds Fund or any
5 separate clean water fund or account established under this act, (ii) used to pay debt
6 service on the bonds authorized by this act, (iii) used to satisfy compliance with
7 applicable requirements of the federal tax law, or (iv) transferred to the General Fund of
8 the State.

9 The proceeds of bonds and notes may be used with any other moneys made
10 available by the General Assembly for making grants and loans authorized by this act,
11 including the proceeds of any other State bond issues, whether heretofore made
12 available or which may be made available at the session of the General Assembly at
13 which this act is ratified or any subsequent sessions. The proceeds of bonds and notes
14 shall be expended and disbursed under the direction and supervision of the Director of
15 the Budget. The funds provided by this act shall be disbursed for the purposes provided
16 in this act upon warrants drawn on the State Treasurer by the State Controller, which
17 warrants shall not be drawn until requisition has been approved by the Director of the
18 Budget and which requisition shall be approved only after full compliance with the
19 Executive Budget Act, Article 1 of Chapter 143 of the General Statutes.

20 **SECTION 7.** Election. – The question of the issuance of the bonds
21 authorized by this act shall be submitted to the qualified voters of the State at an
22 election to be held on the first Tuesday after the first Monday of November 2006. Any
23 other primary, election, or referendum validly called or scheduled by law at the time the
24 election on the bond question provided for in this section is held may be held as called
25 or scheduled. Notice of the election shall be given in the manner and at the times
26 required by G.S. 163-33(8). The election and the registration of voters therefor shall be
27 held under and in accordance with the general laws of the State. Absentee ballots shall
28 be authorized in the election.

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

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

37 FOR AGAINST

38 The issuance of one billion dollars (\$1,000,000,000) State of North Carolina
39 Clean Water Bonds constituting general obligation bonds of the State secured by a
40 pledge of the faith and credit and taxing power of the State for the purpose of providing
41 funds, with any other available funds, to make loans and grants to local government
42 units and nonprofit entities to pay all or a portion of the cost of clean water projects. No
43 more than an aggregate amount of two hundred million dollars (\$200,000,000) of bonds
44 may be issued under this authorization before July 1, 2007. No more than an aggregate

1 amount of four hundred million dollars (\$400,000,000) of bonds may be issued under
2 this authorization before July 1, 2008. No more than an aggregate amount of six
3 hundred million dollars (\$600,000,000) of bonds may be issued under this authorization
4 before July 1, 2009. No more than an aggregate amount of eight hundred million
5 dollars (\$800,000,000) of bonds may be issued under this authorization before July 1,
6 2010."

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

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

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

27 **SECTION 8.(b)** Signatures; form and denomination; registration. – Bonds
28 or notes may be issued in certificated or uncertificated form. If issued in certificated
29 form, bonds or notes shall be signed on behalf of the State by the Governor or shall bear
30 the Governor's facsimile signature, shall be signed by the State Treasurer or shall bear
31 the State Treasurer's facsimile signature, and shall bear the Great Seal of the State or a
32 facsimile of the Seal shall be impressed or imprinted thereon. If bonds or notes bear the
33 facsimile signatures of the Governor and the State Treasurer, the bonds or notes shall
34 also bear a manual signature which may be that of a bond registrar, trustee, paying
35 agent, or designated assistant of the State Treasurer. Should any officer whose
36 signature or facsimile signature appears on bonds or notes cease to be such officer
37 before the delivery of the bonds or notes, the signature or facsimile signature shall
38 nevertheless have the same validity for all purposes as if the officer had remained in
39 office until delivery. Bonds or notes may bear the facsimile signatures of persons who
40 at the actual time of the execution of the bonds or notes shall be the proper officers to
41 sign any bond or note although at the date of the bond or note such persons may not
42 have been such officers. The form and denomination of bonds or notes, including the
43 provisions with respect to registration of the bonds or notes and any system for their
44 registration, shall be as the State Treasurer may determine in conformity with this act.

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

12 **SECTION 8.(d)** Notes; repayment.–

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

- 17 a. For anticipating the sale of bonds the issuance of which the
18 Council of State has approved, if the State Treasurer considers
19 it advisable to postpone the issuance of the bonds;
- 20 b. For the payment of interest on or any installment of principal of
21 any bonds then outstanding, if there are not sufficient funds in
22 the State treasury with which to pay the interest or installment
23 of principal as they respectively become due;
- 24 c. For the renewal of any loan evidenced by notes herein
25 authorized;
- 26 d. For the purposes authorized in this act; and
- 27 e. For refunding bonds or notes as herein authorized.

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

34 **SECTION 8.(e)** Refunding bonds and notes. – By and with the consent of
35 the Council of State, the State Treasurer is authorized to issue and sell refunding bonds
36 and notes for the purpose of refunding bonds or notes issued pursuant to this act and to
37 pay the cost of issuance of the refunding bonds or notes. The refunding bonds and notes
38 may be combined with any other issues of State bonds and notes similarly secured.
39 Refunding bonds or notes may be issued at any time prior to the final maturity of the
40 debt or obligation to be refunded. The proceeds from the sale of any refunding bonds or
41 notes shall be applied to the immediate payment and retirement of the bonds or notes
42 being refunded or, if not required for the immediate payment of the bonds or notes
43 being refunded, the proceeds shall be deposited in trust to provide for the payment and
44 retirement of the bonds or notes being refunded and to pay any expenses incurred in

1 connection with the refunding. Money in a trust fund may be invested in (i) direct
2 obligations of the United States government, (ii) obligations the principal of and interest
3 on which are guaranteed by the United States government, (iii) obligations of any
4 agency or instrumentality of the United States government if the timely payment of
5 principal and interest on the obligations is unconditionally guaranteed by the United
6 States government, or (iv) certificates of deposit issued by a bank or trust company
7 located in the State if the certificates are secured by a pledge of any of the obligations
8 described in (i), (ii), or (iii) above having an aggregate market value, exclusive of
9 accrued interest, equal at least to the principal amount of the certificates so secured.
10 This section does not limit the duration of any deposit in trust for the retirement of
11 bonds or notes being refunded but that have not matured and are not presently
12 redeemable, or if presently redeemable, have not been called for redemption.

13 **SECTION 8.(f)** Tax exemption. – Bonds and notes shall at all times be free
14 from taxation by the State or any political subdivision or any of their agencies,
15 excepting estate, inheritance, or gift taxes, income taxes on the gain from the transfer of
16 the securities, and franchise taxes. The interest on the securities is not subject to taxation
17 as income.

18 **SECTION 8.(g)** Investment eligibility. – Bonds and notes are securities in
19 which all of the following may invest, including capital in their control or belonging to
20 them: public officers, agencies, and public bodies of the State and its political
21 subdivisions, all insurance companies, trust companies, investment companies, banks,
22 savings banks, savings and loan associations, credit unions, pension or retirement funds,
23 other financial institutions engaged in business in the State, executors, administrators,
24 trustees, and other fiduciaries may properly and legally invest funds, including capital in
25 their control or belonging to them. Bonds and notes are hereby made securities which
26 may properly and legally be deposited with and received by any officer or agency of the
27 State or political subdivision of the State for any purpose for which the deposit of
28 bonds, notes, or obligations of the State or any political subdivision is now or may
29 hereafter be authorized by law.

30 **SECTION 8.(h)** Faith and credit. – The faith and credit and taxing power of
31 the State are hereby pledged for the payment of the principal of and the interest on
32 bonds and notes. In addition to the State's right to amend any provision of this act to the
33 extent it does not impair any contractual right of a bond owner, the State expressly
34 reserves the right to amend any provision of this act with respect to the making and
35 repayment of loans, the disposition of any repayments of loans, and any intercept
36 provisions relating to the failure of a local government unit to repay a loan, the bonds
37 not being secured in any respect by loans, any repayments thereof, or any intercept
38 provisions with respect thereto.

39 **SECTION 8.(i)** Minority business participation. – The State Treasurer shall
40 provide contracting opportunities for historically underutilized businesses in providing
41 professional services in connection with the issuance of bonds and notes authorized by
42 this act. As used in this subsection, the term "historically underutilized business" means
43 a business described in G.S. 143-48. The State Treasurer shall strive to increase the
44 amount of legal, financial, and other professional services acquired by it from

1 historically underutilized businesses. With the assistance of the Office for Historically
2 Underutilized Businesses in the Department of Administration, the State Treasurer shall
3 set objectives for contracting with these businesses, identify and eliminate barriers or
4 constraints that may restrict these businesses from contracting with the State Treasurer,
5 and develop a plan for meeting its objectives. The State Treasurer shall report quarterly
6 to the Office for Historically Underutilized Businesses on its progress in carrying out
7 the requirements of this subsection.

8 **SECTION 9.** Variable rate demand bonds and notes. – In fixing the details
9 of bonds and notes, the State Treasurer may provide that any of the bonds or notes may:

- 10 (1) Be made payable from time to time on demand or tender for purchase
11 by the owner if a credit facility supports the bonds or notes, unless the
12 State Treasurer specifically determines that a credit facility is not
13 required upon a finding and determination by the State Treasurer that
14 the absence of a credit facility will not materially or adversely affect
15 the financial position of the State and the marketing of the bonds or
16 notes at a reasonable interest cost to the State;
- 17 (2) Be additionally supported by a credit facility;
- 18 (3) Be made subject to redemption or a mandatory tender for purchase
19 prior to maturity;
- 20 (4) Bear interest at a rate or rates that may vary for any period of time, as
21 may be provided in the proceedings providing for the issuance of the
22 bonds or notes, including, without limitation, such variations as may
23 be permitted pursuant to a par formula; and
- 24 (5) Be made the subject of a remarketing agreement whereby an attempt is
25 made to remarket bonds or notes to new purchasers prior to their
26 presentment for payment to the provider of the credit facility or to the
27 State.

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

36 **SECTION 10.** Interpretation of act. – (a) Additional method. – The
37 foregoing sections of this act shall be deemed to provide an additional and alternative
38 method for the doing of the things authorized thereby and shall be regarded as
39 supplemental and additional to powers conferred by other laws, and shall not be
40 regarded as in derogation of any powers now existing.

41 **SECTION 10.(b)** Statutory references. – References in this act to specific
42 sections or Chapters of the General Statutes or to specific acts are intended to be
43 references to these sections, Chapters, or acts as they may be amended from time to
44 time by the General Assembly.

1 **SECTION 10.(c)** Broad construction. – This act, being necessary for the
2 health and welfare of the people of the State, shall be broadly construed to effect the
3 purposes thereof.

4 **SECTION 10.(d)** Inconsistent provisions. – Insofar as the provisions of this
5 act are inconsistent with the provisions of any general, special, or local laws, or parts
6 thereof, the provisions of this act shall be controlling.

7 **SECTION 10.(e)** Severability. – If any provision of this act or the
8 application thereof to any person or circumstance is held invalid, such invalidity shall
9 not affect other provisions or applications of the act which can be given effect without
10 the invalid provision or application, and to this end the provisions of this act are
11 declared to be severable.

12 **SECTION 11.** This act is effective when it becomes law.