

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2007

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HOUSE DRH10032-LYx-68 (2/5)

Short Title: Clean Water Act of 2007. (Public)

Sponsors: Representatives Owens, Wainwright, and Daughtride (Primary Sponsors).

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 Act of 2007."

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 2007 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 2007 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 five hundred million dollars (\$500,000,000) 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 one hundred million dollars (\$100,000,000) of bonds may be issued under this act before July 1, 2008. 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, 2009. No more than an aggregate amount of three hundred million dollars (\$300,000,000) of bonds may be issued under this act before July 1, 2010. 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, 2011.

1 **SECTION 3.** Use of bond proceeds. – The proceeds of the 2007 Clean
2 Water Bonds shall be used as provided in this section. The General Assembly may
3 increase or decrease the allocations provided for in this section so long as the aggregate
4 amount of the allocations does not exceed the amount authorized under Section 2 of this
5 act.

- 6 (1) Forty-seven and one-half percent (47.5%) of the proceeds of each
7 issuance of 2007 Clean Water Bonds shall be used in the same manner
8 as funds appropriated to the Rural Center Reserve Fund established
9 under G.S. 159G-22.
- 10 (2) Twenty-three and three-quarters percent (23.75%) of the proceeds of
11 each issuance of 2007 Clean Water Bonds shall be used in the same
12 manner as funds appropriated to the Clean Water State Revolving
13 Fund established under G.S. 159G-22.
- 14 (3) Twenty-three and three-quarters percent (23.75%) of the proceeds of
15 each issuance of 2007 Clean Water Bonds shall be used in the same
16 manner as funds appropriated to the Drinking Water State Revolving
17 Fund established under G.S. 159G-22.
- 18 (4) Five percent (5%) of the proceeds of each issuance of 2007 Clean
19 Water Bonds is allocated to the Department of Commerce to be used
20 in accordance with Section 5 of this act.

21 **SECTION 4.(a)** G.S. 159G-20 is amended by adding two new subdivisions
22 to read:

23 "**§ 159G-20. Definitions.**

24 The following definitions apply in this Chapter:

25 ...

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

30 **SECTION 4.(b)** G.S. 159G-21 reads as rewritten:

31 "**§ 159G-21. Revenue for water projects.**

32 This Chapter governs the use of the following revenue:

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

43 **SECTION 4.(c)** G.S. 159G-22 is amended by adding a new subsection to
44 read:

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

7 **SECTION 4.(d)** G.S. 159G-23 reads as rewritten:

8 "**§ 159G-23. Common criteria for loan or grant from Wastewater Reserve**
9 **or Reserve, Drinking Water Reserve, Reserve, or Rural Center Reserve.**

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

17 ..."

18 **SECTION 4.(e)** G.S. 159G-24 reads as rewritten:

19 "**§ 159G-24. Fee imposed on a loan or grant from Wastewater Reserve or Reserve,**
20 **Drinking Water Reserve, or Rural Center Reserve.**

21 (a) Amount. – A loan awarded from the Wastewater Reserve or the Drinking
22 Water Reserve is subject to a fee of two and one-half percent (2 ½%) of the loan. A
23 grant awarded from the Wastewater Reserve or Reserve, the Drinking Water Reserve, or
24 the Rural Center Reserve is subject to a fee of one and one-half percent (1 ½%) of the
25 grant. The fee is payable when a loan or grant is awarded.

26 (b) Departmental Receipt. – The fee on a loan from the Wastewater Reserve or
27 the Drinking Water Reserve is a departmental receipt and must be applied to the
28 Department's and the Local Government Commission's costs in administering loans
29 from these Reserves. The Department and the Local Government Commission must
30 determine how to allocate the fee receipts between their agencies. The fee on a grant
31 from the Wastewater Reserve or the Drinking Water Reserve is a departmental receipt
32 of the Department and must be applied to the Department's costs in administering grants
33 from these Reserves.

34 (c) Rural Center. – The fee of a grant from the Rural Center Reserve is
35 appropriated to the Rural Center. The fee must be applied to the Rural Center's costs in
36 administering grants from the Rural Center Reserve."

37 **SECTION 4.(f)** G.S. 159G-26 reads as rewritten:

38 "**§ 159G-26. Annual reports on Water Infrastructure Fund.**

39 (a) Requirement. – The Department must publish a report each year on the
40 accounts in the Water Infrastructure Fund that are administered by the Division of
41 Water Quality or the Division of Environmental Health. The Rural Center must publish
42 a report each year on the Rural Center Reserve. The report reports must be published by
43 November 1 of each year and cover the preceding fiscal year. The Department and the
44 Rural Center must make the report reports available to the public and must give a copy

1 of the ~~report~~ reports to the Environmental Review Commission and the Fiscal Research
2 Division of the General Assembly.

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

- 5 (1) The beginning and ending balance of the account for the fiscal year.
- 6 (2) The amount of revenue credited to the account during the fiscal year,
7 by source.
- 8 (3) The total amount of loans and grants awarded from the account, by
9 type, and the amount of any expenditure for emergency corrective
10 action made from the account.
- 11 (4) For each loan or grant awarded, the recipient of the award, the amount
12 of the award, the amount of the award that was disbursed, and the
13 amount of the award remaining to be disbursed in a subsequent fiscal
14 year.
- 15 (5) The amount disbursed for loans and grants awarded but not disbursed
16 in a prior fiscal year and the amount remaining to be disbursed in a
17 subsequent fiscal year.
- 18 (6) An assessment of the expected impact on water quality and water
19 supply of the projects for which the loans and grants were
20 ~~awarded~~ awarded, including the number of households and businesses
21 served."

22 **SECTION 4.(g)** Article 1 of Chapter 159G of the General Statutes is
23 amended by adding a new section to read:

24 **"§ 159G-27. Annual appropriation to Water Infrastructure Fund.**

25 There is annually appropriated from the General Fund to the Water Infrastructure
26 Fund established in G.S. 159G-22 the sum of forty-seven million five hundred thousand
27 dollars (\$47,500,000) to be allocated as follows:

- 28 (1) Twenty-five percent (25%) is allocated to the Clean Water State
29 Revolving Fund.
- 30 (2) Twenty-five percent (25%) is allocated to the Drinking Water State
31 Revolving Fund.
- 32 (3) Fifty percent (50%) is allocated to the Rural Center Reserve."

33 **SECTION 4.(h)** Chapter 159G of the General Statutes is amended by adding
34 a new Article to read:

35 "Article 3.

36 "Water Infrastructure Grants Administered by Rural Center.

37 **"§ 159G-50. Definitions.**

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

- 39 (1) Ability to pay. – An assessment of the ability of a local government
40 unit to pay for a water infrastructure project as calculated annually by
41 the Division of Community Assistance in the Department of
42 Commerce.
- 43 (2) Economically distressed area. – Any of the following:

- 1 a. An economically distressed county as defined in
2 G.S. 143B-437.01.
- 3 b. That part of a county in which the poverty rate is at least one
4 hundred fifty percent (150%) of the State poverty rate. The
5 poverty rate is the percentage of the population whose income
6 is below the most recent federal poverty level set by the U.S.
7 Bureau of the Census.
- 8 c. That part of a county that experiences an actual or imminent
9 loss of jobs in a number equal to or greater than five percent
10 (5%) of the total number of jobs in the part.
- 11 (3) Rural county. – A county with a population density of fewer than 250
12 people per square mile based on the most recent federal decennial
13 census.

14 **"§ 159G-51. Management of Rural Center Reserve.**

15 The Rural Center administers grants from the Rural Center Reserve. The Rural
16 Center must use one-half of the revenue credited to the Rural Center Reserve under
17 G.S. 159G-21 for grants for wastewater collection system projects and wastewater
18 treatment works projects. The Rural Center must use one-half of the revenue credited to
19 the Rural Center Reserve under G.S. 159G-21 for public water system projects.

20 **"§ 159G-52. Entities and projects eligible for grants.**

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

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

- 26 (1) Wastewater collection system.
- 27 (2) Wastewater treatment works.
- 28 (3) Public water system.
- 29 (4) Wastewater and drinking water infrastructure planning.
- 30 (5) Multi-jurisdictional wastewater, drinking water, water quality, and
31 stormwater planning.

32 **"§ 159G-53. Grants available from Rural Center Reserve.**

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

37 (b) Planning Grant. – A grant is available for the costs associated with
38 preliminary planning for wastewater collection system projects, wastewater treatment
39 works projects, and public water system projects. Preliminary planning includes
40 developing a capital improvement plan, developing a comprehensive land-use plan,
41 conducting a study, developing a regional or multi-jurisdictional infrastructure or water
42 quality improvement plan, assembling a financing plan to carry out a project,
43 completing a grant application, and preparing a preliminary engineering report for a
44 proposed project. A planning grant is subject to the following restrictions:

- 1 (1) Eligibility. – A local government unit is eligible for a planning grant if
2 it meets the following criteria. For purposes of this section, a regional
3 council of government organized under G.S. 160A-460 or a regional
4 planning and development commission organized under
5 G.S. 153A-391 is considered a local government unit.
6 a. It is a rural county or is located in one of these counties.
7 b. It is an economically distressed county or is located in an
8 economically distressed county or an economically distressed
9 area.
10 c. It is applying for a regional or multi-jurisdictional planning
11 project involving two or more units of local government.
12 (2) Maximum. – A planning grant may not exceed forty thousand dollars
13 (\$40,000) for each unit of local government.
14 (3) Matching funds. – A local government unit must match a planning
15 grant on a dollar-for-dollar basis unless the unit meets one or more of
16 the following descriptions. If it meets one or more of these
17 descriptions, the Rural Center may require a match of less than fifty
18 percent (50%) or provide that no match is required.
19 a. It is an economically distressed county or located in an
20 economically distressed county.
21 b. Its poverty rate is at least one hundred fifty percent (150%) of
22 the State poverty rate.
23 c. If it is not a county, its ability to pay is less than fifty percent
24 (50%) of the ability to pay of the county in which it is located.
25 (c) Supplemental Grant. – A grant is available to match other funds to be applied
26 to the construction costs of a project. Other funds include federal funds, State funds
27 received under Article 2 of this Chapter, and local funds. A supplemental grant is
28 subject to the following restrictions:
29 (1) Eligibility. – A local government unit is eligible for a supplemental
30 grant if it meets the following criteria:
31 a. It is a rural county or is located in one of these counties.
32 b. It adopts a resolution to set the household user fee for water and
33 sewer service in the area served by the project at an amount that
34 equals or exceeds the high-unit-cost threshold.
35 (2) Maximum. – A supplemental grant may not exceed five hundred
36 thousand dollars (\$500,000).
37 (3) Matching funds. – A local government unit must match a supplemental
38 grant on a dollar-for-dollar basis unless the unit meets one or more of
39 the following descriptions. If it meets one or more of these
40 descriptions, the Rural Center may require a match of less than fifty
41 percent (50%) or provide that no match is required.
42 a. It is an economically distressed county or is located in an
43 economically distressed county.

- 1 b. Its poverty rate is at least one hundred fifty percent (150%) of
2 the State poverty rate.
- 3 c. If it is not a county, its ability to pay is less than fifty percent
4 (50%) of the ability to pay of the county in which it is located.
- 5 (d) Unserved Community Grant. – A grant is available to develop a publicly
6 owned wastewater collection system or wastewater treatment works or a public water
7 system. An unserved community grant is subject to the following restrictions:
- 8 (1) Eligibility. – A local government unit is eligible for an unserved
9 community grant if it meets all of the following criteria:
- 10 a. It contains a community that is not served by a centralized,
11 publicly owned wastewater collection system or wastewater
12 treatment works or public water system.
- 13 b. Its population does not exceed 5,000 based on the most recent
14 annual population estimates certified by the State Budget
15 Officer.
- 16 c. Its median household income does not exceed ninety percent
17 (90%) of the national median household income, based on data
18 from the most recent federal decennial census and updated by
19 the U.S. Department of Housing and Urban Development's
20 annual estimated income adjustment factors.
- 21 d. It adopts a resolution to set the household user fee for water and
22 sewer service in the area served by the project at an amount that
23 equals or exceeds the high-unit-cost threshold.
- 24 e. It has demonstrated that the system is financially feasible with
25 sufficient users and revenues to provide for operations,
26 maintenance, and a capital reserve.
- 27 (2) Maximum. – An unserved community grant may not exceed either of
28 the following:
- 29 a. Ninety percent (90%) of the costs of the project for which the
30 grant is awarded.
- 31 b. Three million five hundred thousand dollars (\$3,500,000).
- 32 (3) Matching funds. – A local government unit must match an unserved
33 community grant on a nine-to-one basis to provide an amount equal to
34 ten percent (10%) of the grant from the Rural Center, unless the unit
35 meets one or more of the following descriptions. If it meets one or
36 more of these descriptions, the Rural Center may require a match of
37 less than 10 percent (10%) or provide that no match is required.
- 38 a. It is an economically distressed county or is located in an
39 economically distressed county.
- 40 b. Its poverty rate is at least one hundred fifty percent (150%) of
41 the State poverty rate.
- 42 c. If it is not a county, its ability to pay is less than fifty percent
43 (50%) of the ability to pay of the county in which it is located.

44 **"§ 159G-54. Criteria for grants.**

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

5 **"§ 159G-55. Application.**

6 An application for a grant from the Rural Center Reserve must be submitted to the
7 Rural Center. An application must be submitted on a form prescribed by the Rural
8 Center and must contain the information required by the Rural Center. An applicant
9 must submit to the Rural Center any additional information requested by the Rural
10 Center to enable the Rural Center to make a determination on the application. An
11 application that does not contain information required on the application or requested by
12 the Rural Center is incomplete and is not eligible for consideration. An applicant may
13 submit an application in as many categories as it is eligible for consideration under this
14 Article.

15 **"§ 159G-56. Environmental assessment.**

16 (a) An application submitted under this Article for any grant other than a water
17 infrastructure planning grant must state whether the project to be funded by the grant
18 requires an environmental assessment. If the application indicates that an environmental
19 assessment is not required, it must identify the exclusion in the North Carolina
20 Environmental Policy Act, Article 1 of Chapter 113A of the General Statutes, that
21 applies to the project. The Rural Center must give the Department a copy of an
22 application that indicates an environmental assessment is not required. If the
23 Department determines that the project requires an environmental assessment, the
24 Department must notify the Rural Center and the applicant, and the applicant must
25 submit the assessment to the Department before the Rural Center continues its review of
26 the application.

27 (b) An application that does not identify an exclusion in the North Carolina
28 Environmental Policy Act must include the environmental assessment of the project's
29 probable impacts on the environment that was submitted to the Department. If the
30 Department notifies the Rural Center that an environmental impact statement is
31 required, the Rural Center may not continue its review of the application until a final
32 environmental impact statement has been completed and approved as provided in that
33 Act.

34 **"§ 159G-57. Review of applications and award of grant.**

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

40 (b) Reconsideration. – When an application's rank is too low to receive an award
41 of a grant for an application period, the Rural Center may reconsider an amended
42 application, provided the application addresses questions from the previous grant round.

43 (c) Notification of Decision. – When the Rural Center determines that an
44 application's rank makes it eligible for an award of a grant, the Rural Center must send

1 the applicant a letter of intent to award the grant. The notice must set out any conditions
2 the applicant must meet to receive an award of a grant. When the applicant satisfies the
3 conditions set out in the letter of intent, the Rural Center must send the applicant an
4 offer to award a grant. The applicant must give the Rural Center written notice of
5 whether it accepts or rejects the offer. A grant is considered awarded when an offer to
6 award the grant is issued.

7 **"§ 159G-58. Disbursement of grant.**

8 A planning grant awarded under this Article may be disbursed in one payment.
9 Other grants awarded under this Article must be disbursed in two or more payments
10 based on the progress of the project for which the grant was awarded. To obtain a
11 payment, a grant recipient must submit a request for payment to the Rural Center and
12 document the expenditures for which the payment is requested. The Rural Center must
13 review the payment request for compliance with all grant conditions.

14 **"§ 159G-59. Withdrawal of grant.**

15 An award for a grant for a project is withdrawn if the applicant fails to enter into a
16 construction contract for the project within one year after the date of the award for
17 supplemental grants or within one and one-half years after the date of the award for
18 unserved communities grants, unless the Board of Directors of the Rural Center finds
19 that the applicant has good cause for the failure. If the Rural Center finds good cause for
20 an applicant's failure, the Rural Center must set a date by which the applicant must take
21 action or forfeit the grant. This section does not apply to a water infrastructure planning
22 grant.

23 **"§ 159G-60. Inspection of project.**

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

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

- 31 (1) Is an officer or employee of the local government unit that received the
32 grant award for the project.
33 (2) Is an owner, officer, employee, or agent of a contractor or
34 subcontractor engaged in the construction of the project for which the
35 grant was made."

36 SECTION 4.(i) Part 1 of Article 10 of Chapter 143B of the General Statutes
37 is amended by adding a new section to read:

38 **"§ 143B-431.3. Appropriation for water infrastructure.**

39 There is annually appropriated from the General Fund to the Department of
40 Commerce the sum of two million five hundred thousand dollars (\$2,500,000) for the
41 purpose of making grants to local government units to pay the cost of clean water
42 projects in connection with the location of industry to, and expansion of industry in, the
43 State. These grants shall be awarded and administered by the Department of Commerce
44 as provided by Section 5 of [this act]."

1 **SECTION 5.** Economic development. – Five percent (5%) of the proceeds
2 of the 2007 Clean Water Bonds shall be used for the purpose of making grants to local
3 government units to pay the cost of clean water projects in connection with the location
4 of industry to, and expansion of industry in, the State. These grants shall be awarded
5 and administered by the Department of Commerce. These funds shall be applied to pay
6 the costs of grants awarded in the same manner as funds in the Industrial Development
7 Fund created in G.S. 143B-437.01(a), for use in accordance with G.S. 143B-437.01(a),
8 subject to the further limitations on the provisions of G.S. 143B-437.01(a) set forth
9 below, and shall be applied to pay the costs of grants awarded in the same manner as
10 funds in the Utility Account of the Industrial Development Fund created in
11 G.S. 143B-437.01(b1), for use in accordance with G.S. 143B-437.01(b1), subject to the
12 further limitations on the provisions of G.S. 143B-437.01(b1) set forth below. In
13 applying the provisions of G.S. 143B-437.01(a) or G.S. 143B-437.01(b1), as the case
14 may be, the following exceptions shall apply:

- 15 (1) The funds shall be used only for grants to local governments, not for
16 loans.
- 17 (2) Grants shall be awarded only to projects the Secretary of Commerce
18 finds will have a favorable impact on the clean water objectives of the
19 State.
- 20 (3) The only purposes for which grants may be made are construction of
21 or improvements to new or existing water or sewer distribution lines or
22 equipment, construction of or improvements to new or existing
23 wastewater treatment works, or improvements that will expand the
24 capacity of existing wastewater treatment works or water supply
25 systems.
- 26 (4) The projects may be located only in counties that are economically
27 distressed as defined in G.S. 143B-437.01 or have a population of less
28 than 50,000.
- 29 (5) Grants may be made only with respect to any of the industries defined
30 in G.S. 105-129.81, notwithstanding any expiration of that statute.
- 31 (6) The provisions of G.S. 143B-437.01(a) or G.S. 143B-437.01(b1), as
32 the case may be, that limit the expenditure of funds to costs of utility
33 lines or facilities located on the site of the new or proposed industrial
34 building or that are directly related to the operation of the specific
35 industrial activity at the building, shall not apply if the utility lines or
36 facilities being provided will further the clean water objectives of the
37 State.

38 The General Assembly finds that the purpose of providing water and sewer
39 distribution lines and wastewater treatment works in counties eligible for grants under
40 this section is to provide clean water in North Carolina in several different ways. First,
41 these projects will reduce industrial reliance on wells, septic tanks, and other similar
42 facilities. Second, when a distribution line is extended to an industrial facility in an area
43 not otherwise served by water and sewer infrastructure, residents, other businesses, and
44 local governments can connect into the distribution line, bringing clean water,

1 wastewater treatment, or both to the unserved area. Also, the installation and expansion
2 of water supply and wastewater treatment facilities to provide water supply and
3 wastewater treatment in connection with new or expanding industry will result in
4 additional water supply and treatment facilities available to the residents, other
5 businesses, and local governments in the area where the installation or expansion
6 occurs.

7 The proceeds of the 2007 Clean Water Bonds, issued for the purpose
8 described in this section, shall be held in the 2007 Clean Water Bonds Fund until
9 needed for expenditure by the grantee for the payment of the cost for the purpose for
10 which the grant is made. The Department of Commerce shall maintain records that
11 document the timing and purpose for which each expenditure of proceeds of a grant is
12 made.

13 **SECTION 6.** Allocation of proceeds. – The proceeds of 2007 Clean Water
14 Bonds and notes, including premium thereon, if any, except the proceeds of bonds the
15 issuance of which has been anticipated by bond anticipation notes or the proceeds of
16 refunding bonds or notes, shall be placed by the State Treasurer in a special fund to be
17 designated "2007 Clean Water Bonds Fund", which may include such appropriate
18 special accounts therein as may be determined by the State Treasurer and shall be
19 disbursed as provided in this act. Moneys in the 2007 Clean Water Bonds Fund shall be
20 allocated and expended as provided in this act.

21 Any additional moneys which may be received by means of a grant or grants
22 from the United States of America or any agency or department thereof or from any
23 other source for deposit to the 2007 Clean Water Bonds Fund may be placed in the 2007
24 Clean Water Bonds Fund or in a separate account or fund and shall be disbursed, to the
25 extent permitted by the terms of the grant or grants, without regard to any limitations
26 imposed by this act.

27 Moneys in the 2007 Clean Water Bonds Fund or any separate clean water
28 fund or account established under this act may be invested from time to time by the
29 State Treasurer in the same manner permitted for investment of moneys belonging to
30 the State or held in the State treasury, except with respect to grant money to the extent
31 otherwise directed by the terms of the grant. Investment earnings, except investment
32 earnings with respect to grant moneys to the extent otherwise directed or restricted by
33 the terms of the grant, may be (i) credited to the 2007 Clean Water Bonds Fund or any
34 separate clean water fund or account established under this act, (ii) used to pay debt
35 service on the bonds authorized by this act, (iii) used to satisfy compliance with
36 applicable requirements of the federal tax law, or (iv) transferred to the General Fund of
37 the State.

38 The proceeds of bonds and notes may be used with any other moneys made
39 available by the General Assembly for making grants and loans authorized by this act,
40 including the proceeds of any other State bond issues, whether heretofore made
41 available or which may be made available at the session of the General Assembly at
42 which this act is ratified or any subsequent sessions. The proceeds of bonds and notes
43 shall be expended and disbursed under the direction and supervision of the Director of
44 the Budget. The funds provided by this act shall be disbursed for the purposes provided

1 in this act upon warrants drawn on the State Treasurer by the State Controller, which
2 warrants shall not be drawn until requisition has been approved by the Director of the
3 Budget and which requisition shall be approved only after full compliance with the
4 State Budget Act, Chapter 143C of the General Statutes.

5 **SECTION 7.** Election. – The question of the issuance of the bonds
6 authorized by this act shall be submitted to the qualified voters of the State at an
7 election to be held on the first Tuesday after the first Monday of November 2007. Any
8 other primary, election, or referendum validly called or scheduled by law at the time the
9 election on the bond question provided for in this section is held may be held as called
10 or scheduled. Notice of the election shall be given in the manner and at the times
11 required by G.S. 163-33(8). The election and the registration of voters therefor shall be
12 held under and in accordance with the general laws of the State. Absentee ballots shall
13 be authorized in the election.

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

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

22 "[] FOR [] AGAINST

23 the issuance of five hundred million dollars (\$500,000,000) State of North
24 Carolina 2007 Clean Water Bonds constituting general obligation bonds of the State
25 secured by a pledge of the faith and credit and taxing power of the State for the purpose
26 of providing funds, with any other available funds, to make loans and grants to local
27 government units to pay all or a portion of the cost of clean water projects."

28 If a majority of those voting on a bond question in the election vote in favor
29 of the issuance of the bonds described in the question, those bonds may be issued as
30 provided in this act. If a majority of those voting on a bond question in the election vote
31 against the issuance of the bonds described in the question, those bonds shall not be
32 issued.

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

37 **SECTION 8.** Issuance of bonds and notes. – (a) Terms and conditions. –
38 Bonds or notes may bear such date or dates, may be serial or term bonds or notes, or any
39 combination thereof, may mature in such amounts and at such time or times, not
40 exceeding 40 years from their date or dates, may be payable at such place or places,
41 either within or without the United States of America, in such coin or currency of the
42 United States of America as at the time of payment is legal tender for payment of public
43 and private debts, may bear interest at such rate or rates, which may vary from time to
44 time, and may be made redeemable before maturity, at the option of the State or

1 otherwise as may be provided by the State, at such price or prices, including a price less
2 than the face amount of the bonds or notes, and under such terms and conditions, all as
3 may be determined by the State Treasurer, by and with the consent of the Council of
4 State.

5 **SECTION 8.(b)** Signatures; form and denomination; registration. – Bonds
6 or notes may be issued as certificated or uncertificated obligations. If issued as
7 certificated obligations, bonds or notes shall be signed on behalf of the State by the
8 Governor or shall bear his or her facsimile signature, shall be signed by the State
9 Treasurer or shall bear his or her facsimile signature, and shall bear the Great Seal of the
10 State, or a facsimile thereof shall be impressed or imprinted thereon. If bonds or notes
11 bear the facsimile signatures of the Governor and the State Treasurer, the bonds or notes
12 shall also bear a manual signature which may be that of a bond registrar, trustee, paying
13 agent, or designated assistant of the State Treasurer. Should any officer whose
14 signature or facsimile signature appears on bonds or notes cease to be such officer
15 before the delivery of the bonds or notes, the signature or facsimile signature shall
16 nevertheless have the same validity for all purposes as if the officer had remained in
17 office until delivery, and bonds or notes may bear the facsimile signatures of persons
18 who at the actual time of the execution of the bonds or notes shall be the proper officers
19 to sign any bond or note, although at the date of the bond or note such persons may not
20 have been such officers. The form and denomination of bonds or notes, including the
21 provisions with respect to registration of the bonds or notes and any system for their
22 registration, shall be as the State Treasurer may determine in conformity with this act;
23 provided, however, that nothing in this act shall prohibit the State Treasurer from
24 proceeding, with respect to the issuance and form of the bonds or notes, under the
25 provisions of Chapter 159E of the General Statutes, the Registered Public Obligations
26 Act, as well as under this act.

27 **SECTION 8.(c)** Manner of sale; expenses. – Subject to determination by the
28 Council of State as to the manner in which bonds or notes shall be offered for sale,
29 whether at public or private sale, whether within or without the United States of
30 America, and whether by publishing notices in certain newspapers and financial
31 journals, mailing notices, inviting bids by correspondence, negotiating contracts of
32 purchase or otherwise, the State Treasurer is authorized to sell bonds or notes at one
33 time or from time to time at such rate or rates of interest, which may vary from time to
34 time, and at such price or prices, including a price less than the face amount of the
35 bonds or the notes, as the State Treasurer may determine. All expenses incurred in
36 preparation, sale, and issuance of bonds or notes shall be paid by the State Treasurer
37 from the proceeds of bonds or notes or other available moneys.

38 **SECTION 8.(d)** Notes; repayment.

- 39 (1) By and with the consent of the Council of State, the State Treasurer is
40 hereby authorized to borrow money and to execute and issue notes of
41 the State for the same, but only in the following circumstances and
42 under the following conditions:

- 1 a. For anticipating the sale of bonds to the issuance of which the
2 Council of State shall have given consent, if the State Treasurer
3 shall deem it advisable to postpone the issuance of the bonds;
4 b. For the payment of interest on or any installment of principal of
5 any bonds then outstanding, if there shall not be sufficient funds
6 in the State treasury with which to pay the interest or
7 installment of principal as they respectively become due;
8 c. For the renewal of any loan evidenced by notes herein
9 authorized;
10 d. For the purposes authorized in this act; and
11 e. For refunding bonds or notes as herein authorized.
12 (2) Funds derived from the sale of bonds or notes may be used in the
13 payment of any bond anticipation notes issued under this act. Funds
14 provided by the General Assembly for the payment of interest on or
15 principal of bonds shall be used in paying the interest on or principal
16 of any notes and any renewals thereof, the proceeds of which shall
17 have been used in paying interest on or principal of the bonds.

18 **SECTION 8.(e)** Refunding bonds and notes. – By and with the consent of
19 the Council of State, the State Treasurer is authorized to issue and sell refunding bonds
20 and notes pursuant to the provisions of the State Refunding Bond Act for the purpose of
21 refunding bonds or notes issued pursuant to this act. The refunding bonds and notes
22 may be combined with any other issues of State bonds and notes similarly secured.

23 **SECTION 8.(f)** Tax exemption. – Bonds and notes shall be exempt from all
24 State, county, and municipal taxation or assessment, direct or indirect, general or
25 special, whether imposed for the purpose of general revenue or otherwise, excluding
26 inheritance and gift taxes, income taxes on the gain from the transfer of bonds and
27 notes, and franchise taxes. The interest on bonds and notes shall not be subject to
28 taxation as to income.

29 **SECTION 8.(g)** Investment eligibility. – Bonds and notes are hereby made
30 securities in which all public officers, agencies, and public bodies of the State and its
31 political subdivisions, all insurance companies, trust companies, investment companies,
32 banks, savings banks, savings and loan associations, credit unions, pension or retirement
33 funds, other financial institutions engaged in business in the State, executors,
34 administrators, trustees, and other fiduciaries may properly and legally invest funds,
35 including capital in their control or belonging to them. Bonds and notes are hereby
36 made securities which may properly and legally be deposited with and received by any
37 officer or agency of the State or political subdivision of the State for any purpose for
38 which the deposit of bonds, notes, or obligations of the State or any political subdivision
39 is now or may hereafter be authorized by law.

40 **SECTION 8.(h)** Faith and credit. – The faith and credit and taxing power of
41 the State are hereby pledged for the payment of the principal of and the interest on
42 bonds and notes. In addition to the State's right to amend any provision of this act to the
43 extent it does not impair any contractual right of a bond owner, the State expressly
44 reserves the right to amend any provision of this act with respect to the making and

1 repayment of loans, the disposition of any repayments of loans, and any intercept
2 provisions relating to the failure of a local government unit to repay a loan, the bonds
3 not being secured in any respect by loans, any repayments thereof, or any intercept
4 provisions with respect thereto.

5 **SECTION 8.(i)** Minority business participation. – The State Treasurer shall
6 provide contracting opportunities for historically underutilized businesses in providing
7 professional services in connection with the issuance of bonds and notes authorized by
8 this act. As used in this subsection, the term "historically underutilized business" means
9 a business described in G.S. 143-48. The State Treasurer shall strive to increase the
10 amount of legal, financial, and other professional services acquired by it from
11 historically underutilized businesses. With the assistance of the Office for Historically
12 Underutilized Businesses in the Department of Administration, the State Treasurer shall
13 set objectives for contracting with these businesses, identify and eliminate barriers or
14 constraints that may restrict these businesses from contracting with the State Treasurer,
15 and develop a plan for meeting these objectives. The State Treasurer shall report
16 quarterly to the Office for Historically Underutilized Businesses on its progress in
17 carrying out the requirements of this subsection.

18 **SECTION 8.(j)** Other agreements. – The State Treasurer may authorize,
19 execute, obtain, or otherwise provide for bond insurance, investment contracts, credit
20 and liquidity facilities, interest rate swap agreements and other derivative products, and
21 any other related instruments and matters the State Treasurer determines are desirable in
22 connection with the issuance, incurrence, carrying, or securing of bonds or notes.
23 Subject to the provisions of subsection (i) of this section, the State Treasurer is
24 authorized to employ and designate any financial consultants, underwriters, and bond
25 attorneys to be associated with any bond issue under this act as the State Treasurer
26 considers necessary.

27 **SECTION 9.** Variable interest rates. – In fixing the details of bonds and
28 notes, the State Treasurer may provide that any of the bonds or notes may:

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

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

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

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

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

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

23 **SECTION 10.(d)** Inconsistent provisions. – Insofar as the provisions of this
24 act are inconsistent with the provisions of any general laws, or parts thereof, the
25 provisions of this act shall be controlling.

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

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