

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1991

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HOUSE BILL 1317

Short Title: Clean Water Bond Bill.

(Public)

Sponsors: Representatives Fussell; Flaherty, Gottovi, Greenwood, and Jordan.

Referred to: Finance.

May 26, 1992

A BILL TO BE ENTITLED

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

7 The General Assembly of North Carolina enacts:

8 Section 1. **Short title.** This act shall be known and may be cited as the
9 "North Carolina Clean Water Bond Act of 1992".

10 Sec. 2. **Findings and determinations.** It is the intent and purpose of the
11 General Assembly by this act to provide for the issuance of general obligation bonds of
12 the State in order to provide loans to local government units to assist in the financing of
13 the cost of improvements, enlargements, extensions, and reconstruction of water supply
14 systems, wastewater collection systems, and wastewater treatment works, and the
15 construction of new such systems and works. Loans shall be made only to those local
16 government units that are eligible for and that qualify for loans from the Clean Water
17 Revolving Loan and Grant Fund established in Chapter 159G of the General Statutes.

18 Sec. 3. **Definitions.** As used in this act, unless the context otherwise
19 requires:

20 (1) " Bonds" means bonds issued under this act.

21 (2) " Clean Water Revolving Loan and Grant Fund" means the Clean
22 Water Revolving Loan and Grant Fund as defined in the Clean Water
23 Revolving Loan and Grant Fund Act.
24

- 1 (3) " Clean Water Revolving Loan and Grant Fund Act" means Chapter
2 796 of the 1987 Session Laws, as the same may be amended from time
3 to time, which, as codified appears as Chapter 159G of the General
4 Statutes.
- 5 (4) " Cost" means without intending thereby to limit or restrict any proper
6 definition of such word in financing the cost of facilities or purposes
7 authorized by this act:
- 8 a. The cost of constructing, reconstructing, enlarging, acquiring
9 and improving facilities, and acquiring equipment and land
10 therefor,
- 11 b. The cost of engineering, architectural, and other consulting
12 services as may be required,
- 13 c. Administrative expenses and charges,
- 14 d. The cost of bond insurance, investment contracts, credit
15 enhancement and liquidity facilities, interest-rate swap
16 agreements, financial and legal consultants, and related costs of
17 bond and note issuance, to the extent and as determined by the
18 State Treasurer, and
- 19 e. Any other costs and expenses necessary or incidental to the
20 purposes of this act.
- 21 (5) " Credit facility" means an agreement entered into by the State
22 Treasurer on behalf of the State with a bank, savings and loan
23 association or other banking institution, an insurance company,
24 reinsurance company, surety company or other insurance institution, a
25 corporation, investment banking firm or other investment institution,
26 or any financial institution or other similar provider of a credit facility,
27 which provider may be located within or without the United States of
28 America, such agreement providing for prompt payment of all or any
29 part of the principal or purchase price (whether at maturity,
30 presentment or tender for purchase, redemption or acceleration),
31 redemption premium, if any, and interest on any bonds or notes
32 payable on demand or tender by the owner, in consideration of the
33 State agreeing to repay the provider of the credit facility in accordance
34 with the terms and provisions of such agreement.
- 35 (6) " Local government units" means local government units as defined in
36 the Clean Water Revolving Loan and Grant Fund Act.
- 37 (7) " Notes" means notes issued under this act.
- 38 (8) " Par formula" means any provision or formula adopted by the State to
39 provide for the adjustment, from time to time, of the interest rate or
40 rates borne by any bonds or notes, including:
- 41 a. A provision providing for such adjustment so that the purchase
42 price of such bonds or notes in the open market would be as
43 close to par as possible,

1 b. A provision providing for such adjustment based upon a
2 percentage or percentages of a prime rate or base rate, which
3 percentage or percentages may vary or be applied for different
4 periods of time, or

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

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

10 (10) " Water supply systems" means water supply systems as defined in the
11 Clean Water Revolving Loan and Grant Act.

12 (11) " Wastewater collection systems" means wastewater collection
13 systems as defined in the Clean Water Revolving Loan and Grant Act.

14 (12) " Wastewater treatment works" means wastewater treatment works as
15 defined in the Clean Water Revolving Loan and Grant Acts.

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

18 Sec. 4. **Authorization of bonds and notes.** Subject to a favorable vote of a
19 majority of the qualified voters of the State who vote on the question of issuing clean
20 water bonds in the election called and held as hereinafter provided, the State Treasurer
21 is hereby authorized, by and with the consent of the Council of State, to issue and sell,
22 at one time or from time to time, general obligation bonds of the State to be designated
23 "State of North Carolina Clean Water Bonds", with such additional designations as may
24 be determined to indicate the issuance of bonds from time to time, or notes of the State
25 as herein provided, in an aggregate principal amount not exceeding one hundred million
26 dollars (\$100,000,000) for the purpose of providing funds, with any other available
27 funds, for the purposes authorized in this act.

28 Sec. 5. **Use and allocation of bond and note proceeds.** The proceeds of
29 bonds and notes shall be used and allocated for loans to local government units for the
30 same purposes for which funds in the Clean Water Revolving Loan and Grant Fund may
31 be used. Repayment of the loans shall be used to pay the debt service of the bonds and
32 notes issued. The loans shall be made for the purpose of paying the cost of water supply
33 systems, wastewater collection systems, and wastewater treatment works. The proceeds
34 may be used to make loans directly to local government units qualifying for a loan from
35 the Clean Water Revolving Loan and Grant Fund or used in such other manner as shall
36 effectuate the purposes of this act. The proceeds of bonds and notes shall be allocated
37 between wastewater and water supply purposes in the same percentages as established
38 in G.S. 159G-4, except that no allocation shall be made as a State match of any federal
39 funds deposited into the Water Pollution Control Revolving Fund.

40 Loans requiring the use of proceeds of the sale of bonds or bond anticipation
41 notes shall not be made in an aggregate amount exceeding twenty-five million dollars
42 (\$25,000,000) in the first fiscal year, beginning July 1, 1993, or in an aggregate amount
43 exceeding fifty million dollars (\$50,000,000) in the first two fiscal years, or in an
44 aggregate amount exceeding seventy-five million dollars (\$75,000,000) in the first three

1 fiscal years, or in an aggregate amount exceeding one hundred million dollars
2 (\$100,000,000) in the first four fiscal years.

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

9 **Sec. 6. Allocation of proceeds of bonds and notes.** The proceeds of the
10 bonds and notes in the State Clean Water Bond Fund shall be allocated and expended as
11 provided in this act.

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

18 The proceeds of bonds and notes may be used with any other moneys made
19 available by the General Assembly for making loans authorized by this act, including
20 the proceeds of any other State bond issues, whether heretofore made available or which
21 may be made available at the session of the General Assembly at which this act is
22 ratified or any subsequent sessions. The proceeds of bonds and notes shall be expended
23 and disbursed under the direction and supervision of the Director of the Budget. The
24 funds provided by this act shall be disbursed for the purposes provided in this act upon
25 warrants drawn on the State Treasurer by the State Comptroller, which warrants shall
26 not be drawn until requisition has been approved by the Director of the Budget and
27 which requisition shall be approved only after full compliance with the Executive
28 Budget Act, Article 1 of Chapter 143 of the General Statutes, as it may be amended
29 from time to time.

30 **Sec. 7. Election.** The question of the issuance of the one hundred million
31 dollar (\$100,000,000) North Carolina Clean Water Bonds shall be submitted to the
32 qualified voters of the State at an election to be held on Tuesday, November 3, 1992.
33 Any other primary, election or referendum validly called or scheduled by law at the
34 time the election on the bond question provided for in this section is held may be held as
35 called or scheduled. Notice of the election on the bond question shall be given by
36 publication twice in a newspaper or newspapers having general circulation in each
37 county in the State, and the election and the registration of voters therefor shall be held
38 under and in accordance with the general laws of the State. Absentee ballots shall be
39 authorized in the election.

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

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

6 "[] FOR the issuance of one hundred million dollars (\$100,000,000) State
7 of North Carolina Clean Water Bonds constituting general obligation
8 bonds of the State secured by a pledge of the faith and credit and
9 taxing power of the State for the purpose of providing funds, with any
10 other available funds to make loans to assist local government units in
11 paying the cost of clean water projects.

12 [] AGAINST the issuance of one hundred million dollars (\$100,000,000)
13 State of North Carolina Clean Water Bonds constituting general
14 obligation bonds of the State secured by a pledge of the faith and credit
15 and taxing power of the State for the purpose of providing funds, with
16 any other available funds, to make loans to assist local government
17 units in paying the cost of clean water projects."

18 If a majority of those voting on the bond question in the election shall vote in
19 favor of the issuance of the bonds, such bonds may be issued as herein provided. If a
20 majority of those voting on the bond question in the election shall vote against the
21 issuance of the bonds, such bonds shall not be issued.

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

26 Sec. 8. Issuance of bonds and notes.

27 (a) Terms and conditions. Bonds or notes may bear such date or dates, may
28 be serial or term bonds or notes, or any combination thereof, may mature in such
29 amounts and at such time or times, not exceeding 40 years from their date or dates, may
30 be payable at such place or places, either within or without the United States of
31 America, in such coin or currency of the United States of America as at the time of
32 payment is legal tender for payment of public and private debts, may bear interest at
33 such rate or rates, which may vary from time to time, and may be made redeemable
34 before maturity, at the option of the State or otherwise as may be provided by the State,
35 at such price or prices, including a price less than the face amount of the bonds or notes,
36 and under such terms and conditions, all as may be determined by the State Treasurer,
37 by and with the consent of the Council of State.

38 (b) Signatures; form and denomination; registration. Bonds or notes may be
39 issued as certificated or uncertificated obligations. If issued as certificated obligations,
40 bonds or notes shall be signed on behalf of the State by the Governor or shall bear his
41 facsimile signature, shall be signed by the State Treasurer or shall bear his facsimile
42 signature, and shall bear the Great Seal of the State or a facsimile thereof shall be
43 impressed or imprinted thereon. If bonds or notes bear the facsimile signatures of the
44 Governor and the State Treasurer, the bonds or notes shall also bear a manual signature

1 which may be that of a bond registrar, trustee, paying agent or designated assistant of
2 the State Treasurer. Should any officer whose signature or facsimile signature appears
3 on bonds or notes cease to be such officer before the delivery of the bonds or notes, the
4 signature or facsimile signature shall nevertheless have the same validity for all
5 purposes as if the officer had remained in office until delivery and bonds or notes may
6 bear the facsimile signatures of persons who at the actual time of the execution of the
7 bonds or notes shall be the proper officers to sign any bond or note although at the date
8 of the bond or note such persons may not have been such officers. The form and
9 denomination of bonds or notes, including the provisions with respect to registration of
10 the bonds or notes and any system for their registration, shall be as the State Treasurer
11 may determine in conformity with this act; provided, however, that nothing in this act
12 shall prohibit the State Treasurer from proceeding, with respect to the issuance and form
13 of the bonds or notes, under the provisions of Chapter 159E of the General Statutes, the
14 Registered Public Obligations Act, as said Chapter may be amended from time to time,
15 as well as under this act.

16 (c) Manner of sale; expenses. Subject to determination by the Council of
17 State as to the manner in which bonds or notes shall be offered for sale, whether at
18 public or private sale, whether within or without the United States of America and
19 whether by publishing notices in certain newspapers and financial journals, mailing
20 notices, inviting bids by correspondence, negotiating contracts of purchase, or
21 otherwise, the State Treasurer is authorized to sell bonds or notes at one time or from
22 time to time at such rate or rates of interest, which may vary from time to time, and at
23 such price or prices, including a price less than the face amount of the bonds or notes, as
24 the State Treasurer may determine. All expenses incurred in the preparation, sale and
25 issuance of bonds or notes shall be paid by the State Treasurer from the proceeds of
26 bonds or notes or other available moneys.

27 (d) Notes; repayment.

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

- 32 a. For anticipating the sale of bonds to the issuance of which the
33 Council of State shall have given consent, if the State Treasurer
34 shall deem it advisable to postpone the issuance of the bonds;
- 35 b. For the payment of interest on or any installment of principal of
36 any bonds then outstanding, if there shall not be sufficient funds
37 in the State treasury with which to pay the interest or
38 installment of principal as they respectively become due;
- 39 c. For the renewal of any loan evidenced by notes herein
40 authorized;
- 41 d. For the purposes authorized in this act; and
- 42 e. For refunding bonds or notes as herein authorized.

43 (2) Funds derived from the sale of bonds or notes may be used in the
44 payment of any bond anticipation notes issued under this act. Funds

1 provided by the General Assembly for the payment of interest on or
2 principal of bonds shall be used in paying the interest on or principal
3 of any notes and any renewals thereof, the proceeds of which shall
4 have been used in paying interest on or principal of the bonds.

5 (e) Refunding bonds and notes. By and with the consent of the Council of
6 State, the State Treasurer is authorized to issue and sell refunding bonds and notes
7 pursuant to the provisions of the State Refunding Bond Act for the purpose of refunding
8 bonds or notes issued pursuant to this act. The refunding bonds and notes may be
9 combined with any other issues of State bonds and notes similarly secured.

10 (f) Tax exemption. Bonds and notes and their transfer (including any profit
11 made on the sale thereof) shall be exempt from all State, county and municipal taxation
12 or assessment, direct or indirect, general or special, whether imposed for the purpose of
13 general revenue or otherwise, excluding inheritance and gift taxes. The interest on
14 bonds and notes shall not be subject to taxation as to income, nor shall the bonds and
15 notes be subject to taxation when constituting a part of the surplus of any bank, trust
16 company, or other corporation.

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

28 (h) Faith and credit. The faith and credit and taxing power of the State are
29 hereby pledged for the payment of the principal of and the interest on bonds and notes.

30 Sec. 9. **Variable interest rates.** In fixing the details of bonds and notes, the
31 State Treasurer may provide that any of the bonds or notes may:

- 32 (1) Be made payable from time to time on demand or tender for purchase
33 by the owner thereof provided a credit facility supports the bonds or
34 notes, unless the State Treasurer specifically determines that a credit
35 facility is not required upon a finding and determination by the State
36 Treasurer that the absence of a credit facility will not materially and
37 adversely affect the financial position of the State and the marketing of
38 the bonds or notes at a reasonable interest cost to the State;
- 39 (2) Be additionally supported by a credit facility;
- 40 (3) Be made subject to redemption or a mandatory tender for purchase
41 prior to maturity;
- 42 (4) Bear interest at a rate or rates that may vary for such period or periods
43 of time, all as may be provided in the proceedings providing for the

- 1 issuance of the bonds or notes, including, without limitation, such
2 variations as may be permitted pursuant to a par formula; and
3 (5) Be made the subject of a remarketing agreement whereby an attempt is
4 made to remarket bonds or notes to new purchasers prior to their
5 presentment for payment to the provider of the credit facility or to the
6 State.

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

15 Sec. 10. Interpretation of act.

16 (a) Additional method. The foregoing sections of this act shall be deemed to
17 provide an additional and alternative method for the doing of the things authorized
18 thereby and shall be regarded as supplemental and additional to powers conferred by
19 other laws, and shall not be regarded as in derogation of any powers now existing.

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

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

25 (d) Inconsistent provisions. Insofar as the provisions of this act are inconsistent
26 with the provisions of any general laws, or parts thereof, the provisions of this act shall
27 be controlling.

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

32 Sec. 11. **Effective date.** This act is effective upon ratification.