

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2007

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1

HOUSE BILL 127

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

Sponsors: Representatives Owens, Wainwright, Daughtride (Primary Sponsors); Adams, Allen, Faison, Farmer-Butterfield, Goforth, Hill, Jones, McLawhorn, Mobley, Setzer, E. Warren, Williams, Womble, and Wray.

Referred to: Rules, Calendar, and Operations of the House.

February 8, 2007

A BILL TO BE ENTITLED

1
2 AN ACT TO AUTHORIZE THE ISSUANCE OF GENERAL OBLIGATION BONDS
3 OF THE STATE, SUBJECT TO A VOTE OF THE QUALIFIED VOTERS OF
4 THE STATE, TO ADDRESS STATEWIDE CRITICAL INFRASTRUCTURE
5 NEEDS BY PROVIDING FUNDS FOR GRANTS AND LOANS FOR
6 WASTEWATER AND DRINKING WATER PROJECTS.

7 The General Assembly of North Carolina enacts:

8 **SECTION 1.** This act is entitled "The Clean Water Act of 2007."

9 **SECTION 2.** Authorization of bonds and notes. – Subject to a favorable
10 vote of a majority of the qualified voters of the State who vote on the question of
11 issuing 2007 Clean Water Bonds in the election called and held as provided in this act,
12 the State Treasurer is hereby authorized, by and with the consent of the Council of
13 State, to issue and sell, at one time or from time to time, general obligation bonds of the
14 State to be designated "State of North Carolina 2007 Clean Water Bonds," with any
15 additional designations as may be determined to indicate the issuance of bonds from
16 time to time, or notes of the State as provided in this act, in an aggregate principal
17 amount not exceeding five hundred million dollars (\$500,000,000) for the purpose of
18 providing funds, with any other available funds, for the purposes authorized in this act.
19 No more than an aggregate amount of one hundred million dollars (\$100,000,000) of
20 bonds may be issued under this act before July 1, 2008. No more than an aggregate
21 amount of two hundred million dollars (\$200,000,000) of bonds may be issued under
22 this act before July 1, 2009. No more than an aggregate amount of three hundred
23 million dollars (\$300,000,000) of bonds may be issued under this act before July 1,
24 2010. No more than an aggregate amount of four hundred million dollars
25 (\$400,000,000) of bonds may be issued under this act before July 1, 2011.

26 **SECTION 3.** Use of bond proceeds. – The proceeds of the 2007 Clean
27 Water Bonds shall be used as provided in this section. The General Assembly may

1 increase or decrease the allocations provided for in this section so long as the aggregate
2 amount of the allocations does not exceed the amount authorized under Section 2 of this
3 act.

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

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

21 "**§ 159G-20. Definitions.**

22 The following definitions apply in this Chapter:

23 ...

24 (16) Rural Center. – The Rural Economic Development Center, Inc., a
25 nonprofit North Carolina corporation.

26 (17) Rural Center Reserve. – The Rural Center Reserve established in
27 G.S. 159G-22 as an account in the Water Infrastructure Fund."

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

29 "**§ 159G-21. Revenue for water projects.**

30 This Chapter governs the use of the following revenue:

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

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

43 "(h) Rural Center Reserve. – The Rural Center Reserve is established as an
44 account within the Water Infrastructure Fund. The Account is established to receive

1 funds that are to be used by the Rural Center for grants for publicly owned wastewater
2 collection systems and wastewater treatment works and public water systems. Revenue
3 in the Rural Center Reserve remains in the Reserve until disbursed for a grant under
4 Article 3 of this Chapter."

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

6 "**§ 159G-23. Common criteria for loan or grant from Wastewater Reserve**
7 **or Reserve, Drinking Water Reserve, Reserve, or Rural Center Reserve.**

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

15 ..."

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

17 "**§ 159G-24. Fee imposed on a loan or grant from Wastewater Reserve or Reserve,**
18 **Drinking Water Reserve, or Rural Center Reserve.**

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

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

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

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

36 "**§ 159G-26. Annual reports on Water Infrastructure Fund.**

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

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

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

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

22 **"§ 159G-27. Annual appropriation to Water Infrastructure Fund.**

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

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

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

33 "Article 3.

34 "Water Infrastructure Grants Administered by Rural Center.

35 **"§ 159G-50. Definitions.**

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

- 37 (1) Ability to pay. – An assessment of the ability of a local government
38 unit to pay for a water infrastructure project as calculated annually by
39 the Division of Community Assistance in the Department of
40 Commerce.
41 (2) Economically distressed area. – Any of the following:
42 a. An economically distressed county as defined in
43 G.S. 143B-437.01.

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

6 c. That part of a county that experiences an actual or imminent
7 loss of jobs in a number equal to or greater than five percent
8 (5%) of the total number of jobs in the part.

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

12 **"§ 159G-51. Management of Rural Center Reserve.**

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

18 **"§ 159G-52. Entities and projects eligible for grants.**

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

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

24 (1) Wastewater collection system.

25 (2) Wastewater treatment works.

26 (3) Public water system.

27 (4) Wastewater and drinking water infrastructure planning.

28 (5) Multi-jurisdictional wastewater, drinking water, water quality, and
29 stormwater planning.

30 **"§ 159G-53. Grants available from Rural Center Reserve.**

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

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

43 (1) Eligibility. – A local government unit is eligible for a planning grant if
44 it meets the following criteria. For purposes of this section, a regional

1 council of government organized under G.S. 160A-460 or a regional
2 planning and development commission organized under
3 G.S. 153A-391 is considered a local government unit.

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

5 b. It is an economically distressed county or is located in an
6 economically distressed county or an economically distressed
7 area.

8 c. It is applying for a regional or multi-jurisdictional planning
9 project involving two or more units of local government.

10 (2) Maximum. – A planning grant may not exceed forty thousand dollars
11 (\$40,000) for each unit of local government.

12 (3) Matching funds. – A local government unit must match a planning
13 grant on a dollar-for-dollar basis unless the unit meets one or more of
14 the following descriptions. If it meets one or more of these
15 descriptions, the Rural Center may require a match of less than fifty
16 percent (50%) or provide that no match is required.

17 a. It is an economically distressed county or located in an
18 economically distressed county.

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

21 c. If it is not a county, its ability to pay is less than fifty percent
22 (50%) of the ability to pay of the county in which it is located.

23 (c) Supplemental Grant. – A grant is available to match other funds to be applied
24 to the construction costs of a project. Other funds include federal funds, State funds
25 received under Article 2 of this Chapter, and local funds. A supplemental grant is
26 subject to the following restrictions:

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

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

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

33 (2) Maximum. – A supplemental grant may not exceed five hundred
34 thousand dollars (\$500,000).

35 (3) Matching funds. – A local government unit must match a supplemental
36 grant on a dollar-for-dollar basis unless the unit meets one or more of
37 the following descriptions. If it meets one or more of these
38 descriptions, the Rural Center may require a match of less than fifty
39 percent (50%) or provide that no match is required.

40 a. It is an economically distressed county or is located in an
41 economically distressed county.

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

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

42 **"§ 159G-54. Criteria for grants.**

43 The common criteria in G.S. 159G-23, the criteria set out in this Article, and any
44 other criteria established by the Board of Directors of the Rural Center apply to a grant

1 from the Rural Center Reserve. An application for a project that serves an economically
2 distressed area has priority over a project that does not.

3 **"§ 159G-55. Application.**

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

13 **"§ 159G-56. Environmental assessment.**

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

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

32 **"§ 159G-57. Review of applications and award of grant.**

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

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

41 (c) Notification of Decision. – When the Rural Center determines that an
42 application's rank makes it eligible for an award of a grant, the Rural Center must send
43 the applicant a letter of intent to award the grant. The notice must set out any conditions
44 the applicant must meet to receive an award of a grant. When the applicant satisfies the

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

5 **"§ 159G-58. Disbursement of grant.**

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

12 **"§ 159G-59. Withdrawal of grant.**

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

21 **"§ 159G-60. Inspection of project.**

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

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

29 (1) Is an officer or employee of the local government unit that received the
30 grant award for the project.

31 (2) Is an owner, officer, employee, or agent of a contractor or
32 subcontractor engaged in the construction of the project for which the
33 grant was made."

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

36 **"§ 143B-431.3. Appropriation for water infrastructure.**

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

43 **SECTION 5.** Economic development. – Five percent (5%) of the proceeds
44 of the 2007 Clean Water Bonds shall be used for the purpose of making grants to local

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

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

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

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

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

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

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

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

36 The proceeds of bonds and notes may be used with any other moneys made
37 available by the General Assembly for making grants and loans authorized by this act,
38 including the proceeds of any other State bond issues, whether heretofore made
39 available or which may be made available at the session of the General Assembly at
40 which this act is ratified or any subsequent sessions. The proceeds of bonds and notes
41 shall be expended and disbursed under the direction and supervision of the Director of
42 the Budget. The funds provided by this act shall be disbursed for the purposes provided
43 in this act upon warrants drawn on the State Treasurer by the State Controller, which
44 warrants shall not be drawn until requisition has been approved by the Director of the

1 Budget and which requisition shall be approved only after full compliance with the
2 State Budget Act, Chapter 143C of the General Statutes.

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

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

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

20 "[] FOR [] AGAINST

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

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

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

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

1 may be determined by the State Treasurer, by and with the consent of the Council of
2 State.

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

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

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

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

- 41 a. For anticipating the sale of bonds to the issuance of which the
42 Council of State shall have given consent, if the State Treasurer
43 shall deem it advisable to postpone the issuance of the bonds;

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

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

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

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

37 **SECTION 8.(h)** Faith and credit. – The faith and credit and taxing power of
38 the State are hereby pledged for the payment of the principal of and the interest on
39 bonds and notes. In addition to the State's right to amend any provision of this act to the
40 extent it does not impair any contractual right of a bond owner, the State expressly
41 reserves the right to amend any provision of this act with respect to the making and
42 repayment of loans, the disposition of any repayments of loans, and any intercept
43 provisions relating to the failure of a local government unit to repay a loan, the bonds

1 not being secured in any respect by loans, any repayments thereof, or any intercept
2 provisions with respect thereto.

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

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

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

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

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

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

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

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

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

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

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