

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1991

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SENATE BILL 344

Short Title: Clean Water Loan Program Transfer.

(Public)

Sponsors: Senator Simpson.

Referred to: Environment and Natural Resource.

March 28, 1991

A BILL TO BE ENTITLED

AN ACT TO TRANSFER THE NORTH CAROLINA CLEAN WATER REVOLVING LOAN AND GRANT PROGRAM TO THE DEPARTMENT OF ENVIRONMENT, HEALTH, AND NATURAL RESOURCES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 159G-3 reads as rewritten:

"§ 159G-3. Definitions.

As used in this Chapter, the following words shall have the meanings indicated, unless the context clearly requires otherwise:

(1) ~~'Administrative Account' means the Administrative Account in the Clean Water Revolving Loan and Grant Fund established in the Office of State Budget and Management under the provisions of this Chapter to cover administrative costs of the program.~~

(2) 'Applicant' means a local government unit that applies for a revolving loan or grant under the provisions of this Chapter. In addition, a local government may provide funds to a nonprofit agency which is currently under contract and authorized to provide wastewater treatment or water supply services to that unit of local government.

(3) 'Clean Water Revolving Loan and Grant Fund' means the fund established in the ~~Office of State Budget and Management~~ Department of Environment, Health, and Natural Resources to carry out the provisions of this Chapter, with various accounts therein as herein provided.

- 1 (4) 'Construction costs' means the actual costs of planning, designing
2 and constructing any project for which a revolving loan or grant is
3 made under this Chapter including planning; environmental
4 assessment; wastewater system analysis, evaluation and
5 rehabilitation; engineering; legal, fiscal, administrative and
6 contingency costs for water supply systems, wastewater collection
7 systems, wastewater treatment works and any extensions,
8 improvements, remodeling, additions, or alterations to existing
9 systems. Construction costs may include excess or reserve capacity
10 costs, attributable to no more than 20-year projected domestic
11 growth, plus ten percent (10%) unspecified industrial growth. In
12 addition, construction costs shall include any fees payable to the
13 Environmental Management Commission or the Division of
14 Environmental Health for review of applications and grant of
15 permits, and fees for inspections under G.S. 159G-14. Construction
16 costs may also include the costs for purchase or acquisition of real
17 property.
- 18 (5) 'Grant' means a sum of money given by the State to a local
19 government unit to subsidize the construction costs of a project
20 authorized by this Chapter, without any obligation on the part of
21 such unit to repay such sum.
- 22 (6) 'Commission for Health Services' means the Commission for Health
23 Services created by G.S. 130A-29.
- 24 (6a) 'Debt instrument' means an instrument in the nature of a promissory
25 note executed by a local government unit under the provisions of this
26 Chapter, to evidence a debt to the State and obligation to repay the
27 principal, plus interest, under stated terms.
- 28 (7) 'Division of Environmental Health' means the Division of
29 Environmental Health of the Department of Environment, Health,
30 and Natural Resources.
- 31 (8) 'Environmental Management Commission' means the
32 Environmental Management Commission of the Department of
33 Environment, Health, and Natural Resources.
- 34 (9) 'Local Government Commission' means the Local Government
35 Commission of the Department of the State Treasurer, established by
36 Article 2 of Chapter 159 of the General Statutes.
- 37 (10) 'Local government unit' means a county, city, town, incorporated
38 village, sanitary district, metropolitan sewerage district, metropolitan
39 water district, county water and sewer district, water and sewer
40 authority or joint agency created pursuant to Part 1 of Article 20 of
41 Chapter 160A of the General Statutes.
- 42 ~~(11) 'Office of State Budget and Management' means the Office of State~~
43 ~~Budget and Management established by law.~~

- 1 (12) 'Receiving agency' means the Division of Environmental Health with
2 respect to receipt of applications for revolving loans and grants for
3 water supply systems, and the Environmental Management
4 Commission and the Division of Environmental Management with
5 respect to receipt of applications for revolving loans and grants for
6 wastewater systems.
- 7 (13) 'Revolving construction loan' means a sum of money loaned by the
8 State to a local government unit to subsidize the construction costs
9 of a project authorized by this Chapter, with an obligation on the part
10 of such unit to repay such sum, the proceeds of such repayment to be
11 deposited in the Water Pollution Control Revolving Fund.
- 12 (14) 'Revolving emergency loan' means a sum of money loaned by the
13 State to a local government unit upon a certification, as provided in
14 this Chapter, of a serious public health hazard, with an obligation on
15 the part of such unit to repay such sum.
- 16 (15) 'Revolving loan' includes a revolving construction loan and an
17 emergency loan.
- 18 (15a) 'State' means the State of North Carolina.
- 19 (15b) 'State Treasurer' means the Treasurer of the State elected pursuant to
20 Article III, Section 7 of the Constitution or his designated
21 representative.
- 22 (16) 'Wastewater Accounts' means the various accounts in the Clean
23 Water Revolving Loan and Grant Fund established in the ~~Office of~~
24 ~~State Budget and Management~~ Department of Environment, Health,
25 and Natural Resources under this Chapter for revolving loans and
26 grants for wastewater treatment work and wastewater collection
27 system projects.
- 28 (17) 'Wastewater collection system' means a unified system of pipes,
29 conduits, pumping stations, force mains, and appurtenances other
30 than interceptor sewers, for collecting and transmitting water-carried
31 human wastes and other wastewater from residences, industrial
32 establishments or any other buildings, and owned by a local
33 government unit.
- 34 (18) 'Wastewater treatment works' means the various facilities and
35 devices used in the treatment of sewage, industrial waste or other
36 wastes of a liquid nature, including the necessary interceptor sewers,
37 outfall sewers, phosphorous removal equipment, pumping, power
38 and other equipment and their appurtenances.
- 39 (19) 'Water Supply Accounts' means the various accounts in the Clean
40 Water Revolving Loan and Grant Fund established in the ~~Office of~~
41 ~~State Budget and Management~~ Department of Environment, Health,
42 and Natural Resources under this Chapter for revolving loans and
43 grants for water supply system projects.

(20) 'Water supply system' means a public water supply system consisting of facilities and works for supplying, treating and distributing potable water including, but not limited to, impoundments, reservoirs, wells, intakes, water filtration plants and other treatment facilities, tanks and other storage facilities, transmission mains, distribution piping, pipes connecting the system to other public water supply systems, pumping equipment and all other necessary appurtenances, equipment and structures."

Sec. 2. G.S. 159G-4 reads as rewritten:

"§ 159G-4. Appropriations.

(a) Of the funds appropriated to the Clean Water Revolving Loan and Grant Fund, the amount required in each fiscal year to provide the State match of any federal funds deposited into the Water Pollution Control Revolving Fund shall be allocated to that fund.

(b) Of the appropriations made from the General Fund to the Clean Water Revolving Loan and Grant Fund for use of the ~~Office of State Budget and Management~~ Department of Environment, Health, and Natural Resources as provided in this Chapter, allocations are made as follows after first subtracting the amounts allocated under subsection (a) of this section, to the extent that there are any excess funds available:

Wastewater Accounts

General Wastewater Revolving	
Loan Account	45.00%
Emergency Wastewater Revolving	
Loan Account	14.00%
High-Unit Cost Wastewater	
Account	10.00%

Water Supply Accounts

General Water Supply	
Revolving Loan Account	23.00%
High-Unit Cost Water Supply	
Account	3.00%
Emergency Water Supply Revolving	
Loan Account	5.00%

(c) All payments of interest and repayments of principal resulting from revolving loans shall be credited to the respective accounts from which the revolving loan funds were disbursed. Terms and conditions for repayment of revolving loans shall be established by the ~~Office of State Budget and Management,~~ Department of Environment, Health, and Natural Resources, with the assistance of the Local Government Commission, consistent with the requirements of the Federal Water Pollution Control Act and this Chapter. Provided, the interest rate for all revolving loans authorized by this Chapter shall be fixed at the same percent per annum as the interest rate fixed under the Federal Water Pollution Control Act for loans from the Water Pollution Control Revolving Fund established by G.S. 159G-5(c), not to exceed the lesser of four percent (4%) or one half (1/2) the prevailing national market rate for tax exempt general

1 obligation debt of similar maturities derived from a published indicator. Provided
2 further, the interest rate may be fixed at a lower rate per annum if authorized by the
3 Federal Water Pollution Control Act Regulations. It is the intent of the General
4 Assembly to provide uniform interest payments for all loans made to units of local
5 government irrespective of the account from which loans are made for either wastewater
6 or water supply projects."

7 Sec. 3. G.S. 159G-5(a) reads as rewritten:

8 **"§ 159G-5. Clean Water Revolving Loan and Grant Fund.**

9 (a) There is established in the ~~Office of State Budget and Management~~ Department
10 of Environment, Health, and Natural Resources a fund to be known as the Clean Water
11 Revolving Loan and Grant Fund, to be administered by the Office of State Budget and
12 Management, which shall be responsible for receipt and disbursement of all moneys as
13 appropriated and provided for in this Chapter."

14 Sec. 4. G.S. 159G-6 reads as rewritten:

15 **"§ 159G-6. Distribution of funds.**

16 (a) Revolving loans and grants.

17 (1) All funds appropriated or accruing to the Clean Water Revolving Loan
18 and Grant Fund, other than funds set aside for administrative expenses,
19 shall be used for revolving loans and grants to local government units
20 for construction costs of wastewater treatment works, wastewater
21 collection systems and water supply systems and other assistance as
22 provided in this Chapter.

23 (2) The maximum principal amount of a revolving loan or a grant may be
24 one hundred percent (100%) of the nonfederal share of the
25 construction costs of any eligible project. The maximum principal
26 amount of revolving loans made to any one local government unit
27 during any fiscal year shall be three million dollars (\$3,000,000). The
28 maximum principal amount of grants made to any one local
29 government unit during any fiscal year shall be five hundred thousand
30 dollars (\$500,000).

31 (3) The State Treasurer shall be responsible for investing and distributing
32 all funds appropriated or accruing to the Clean Water Revolving Loan
33 and Grant Fund for revolving loans and grants under this Chapter. In
34 fulfilling his responsibilities under this section, the State Treasurer
35 shall make a written request to the ~~Office of State Budget and~~
36 ~~Management~~ Department of Environment, Health, and Natural
37 Resources to arrange for the appropriated funds to be (i) transferred
38 from the appropriate accounts to a local government unit to provide
39 funds for one or more revolving loans or grants or (ii) invested as
40 authorized by this Chapter with the interest on and the principal of
41 such investments to be transferred to the local government unit to
42 provide funds for one or more revolving loans or grants.

43 (b) Wastewater Accounts. – The sums allocated in G.S. 159G-4 and accruing to
44 the various Wastewater Accounts in each fiscal year shall be used to make revolving

1 loans and grants to local government units as provided below. ~~The Office of State Budget~~
2 ~~and Management~~ Department of Environment, Health, and Natural Resources shall
3 disburse no funds from the Wastewater Accounts except upon receipt of written
4 approval of the disbursement from the Environmental Management Commission.

5 (1) General Wastewater Revolving Loan and Grant Account. – The funds
6 in the General Wastewater Revolving Loan and Grant Account shall
7 be used exclusively for the purpose of providing for revolving
8 construction loans or grants in connection with approved wastewater
9 treatment work or wastewater collection system projects.

10 (2) High-Unit Cost Wastewater Account. – The funds in the High-Unit
11 Cost Wastewater Account shall be available for grants to applicants for
12 high-unit cost wastewater projects. Eligibility of an applicant for such
13 a grant shall be determined by comparing estimated average household
14 user fees for water and sewer service, for debt service and operation
15 and maintenance costs, to one and one-half percent (1.5%) of the
16 median household income in the county in which the project is located.
17 The projects which would require estimated average household water
18 and sewer user fees greater than one and one-half percent (1.5%) of the
19 median household income are defined as high-unit cost wastewater
20 projects and will be eligible for a grant equal to the excess cost, subject
21 to the limitations in subsection (a)(2) of this section.

22 (3) Emergency Wastewater Revolving Loan Account. – The funds in the
23 Emergency Wastewater Revolving Loan Account shall be available for
24 revolving emergency loans to applicants in the event the
25 Environmental Management Commission certifies that a serious public
26 health hazard, related to the inadequacy of existing wastewater
27 facilities, is present or imminent in a community.

28 (c) Water Supply Accounts. – The sums allocated in G.S. 159G-4 and accruing
29 to the various Water Supply Accounts in each fiscal year shall be used to provide
30 revolving loans and grants to local government units as provided below. ~~The Office of~~
31 ~~State Budget and Management~~ Department of Environment, Health, and Natural
32 Resources shall disburse no funds from the Water Supply Accounts except upon receipt
33 of written approval of the disbursement from the Division of Environmental Health.

34 (1) General Water Supply Revolving Loan and Grant Account. – The
35 funds in the General Water Supply Revolving Loan and Grant Account
36 shall be used exclusively for the purpose of providing for revolving
37 construction loans and grants in connection with water supply systems
38 generally and not upon a county allotment basis.

39 (2) High-Unit Cost Water Supply Account. – The funds in the High-Unit
40 Cost Water Supply Account shall be available for grants to applicants
41 for high-unit cost water supply systems, on the same basis as provided
42 in G.S. 159G-6(b)(2) for high-unit cost wastewater projects.

43 (3) Emergency Water Supply Revolving Loan Account. – The funds in the
44 Emergency Water Supply Revolving Loan Account shall be available

1 for revolving emergency loans to applicants in the event the Division
2 of Environmental Health certifies that a serious public health hazard,
3 related to the water supply system, is present or imminent in a
4 community.

5 ~~(d) Administrative Account. — The Office of State Budget and Management,~~
6 ~~from time to time, may allocate funds from the Administrative Account to meet the~~
7 ~~expenses of the Office of State Budget and Management, Local Government~~
8 ~~Commission, Division of Environmental Health and Environmental Management~~
9 ~~Commission incurred in the administration of this Chapter in excess of normal operating~~
10 ~~expenses.~~

11 ~~Each agency entitled to receive administrative expense funds from the~~
12 ~~Administrative Account shall prepare an itemized estimate of administrative funds~~
13 ~~required for the succeeding fiscal year, and the Division of Environmental Health, the~~
14 ~~Local Government Commission and the Environmental Management Commission shall~~
15 ~~deliver their estimates to the Office of State Budget and Management at least 45 days~~
16 ~~prior to the beginning of the fiscal year for which the funds are required. The Office of~~
17 ~~State Budget and Management shall determine the administrative expense funds~~
18 ~~available and, along with its recommendations, shall deliver the estimates of the~~
19 ~~Division of Environmental Health, the Local Government Commission and of the~~
20 ~~Environmental Management Commission and its own estimate, if any, to the Advisory~~
21 ~~Budget Commission at least 30 days prior to the beginning of the fiscal year for which~~
22 ~~the funds are required. Any administrative expense funds shall be disbursed by the~~
23 ~~Office of State Budget and Management to the appropriate agency. If the administrative~~
24 ~~expense funds disbursed to any agency shall prove insufficient, it may apply at any time~~
25 ~~during the fiscal year for additional funds in the manner above provided.~~

26 (e) Notwithstanding any other provision of this Chapter, funds in the Water
27 Pollution Control Revolving Fund shall not be available as grants except to the extent
28 permitted by Title VI of the Federal Water Quality Act of 1987 and the regulations
29 thereunder."

30 Sec. 5. G.S. 159G-8(a) reads as rewritten:

31 "(a) Application. — All applications for revolving loans and grants for water
32 supply systems shall be filed with the Division of Environmental Health and all
33 applications for revolving loans and grants for wastewater treatment works or
34 wastewater collection systems shall be filed with the Environmental Management
35 Commission. ~~Every applicant shall also file with the Office of State Budget and Management~~
36 ~~such information concerning the application as the Office of State Budget and Management~~
37 ~~may require by rules adopted pursuant to this Chapter.~~ Any application may be filed in as
38 many categories as it is eligible for consideration under this Chapter. Applications for
39 revolving construction loans or grants for wastewater treatment works and wastewater
40 collection systems, except applications for emergency wastewater loans, shall first be
41 submitted for a loan or grant from the Water Pollution Control Revolving Fund
42 established by G.S. 159G-5(c). If the application is denied, the application shall then be
43 considered for a revolving loan or a grant from the General Wastewater Revolving Loan
44 and Grant account established under G.S. 159-6(b)(1).

1 ~~The Office of State Budget and Management, the Division of Environmental Health~~
2 Department of Environment, Health, and Natural Resources, the Commission for Health
3 Services, and the Environmental Management Commission may develop jointly and
4 adopt a standard form of application under this Chapter. Any application for
5 construction grants under the Federal Water Pollution Control Act may be considered as
6 an application for revolving construction loans or grants under G.S. 159G-5(c) and
7 G.S. 159G-6(b)(1). The information required to be set forth in the application shall be
8 sufficient to permit the respective agencies to determine the eligibility of the applicant
9 and to establish the priority of the application, as set forth in this Chapter.

10 Any applicant shall furnish information in addition or supplemental to the
11 information contained in its application upon request by the receiving agency."

12 Sec. 6. G.S. 159G-12 reads as rewritten:

13 "**§ 159G-12. Disbursement.**

14 (a) No funds shall be disbursed by the ~~Office of State Budget and Management~~
15 Department of Environment, Health, and Natural Resources for any revolving loan or
16 grant until it has received from the receiving agency a certificate of eligibility to the
17 effect that the applicant meets all eligibility criteria, and that all procedural requirements
18 of this Chapter have been met.

19 (b) In the event that the revolving loan or grant payments are to be made in
20 installments, no payment shall be disbursed by the ~~Office of State Budget and Management~~
21 Department of Environment, Health, and Natural Resources until the receiving agency
22 submits a written request for disbursement.

23 (c) The receiving agency, in its sole discretion, may determine whether the
24 payment of any revolving loan or grant made under this Chapter shall be in a lump sum
25 or in installments as progress payments and shall, by adoption of appropriate rules and
26 regulations, provide for the manner of approval and payment of revolving loans or
27 grants. The State Treasurer, with the approval of the receiving agency and consistent
28 with the provisions of G.S. 159G-6(a)(3), shall, by adoption of appropriate rules,
29 provide for the payment of revolving loans or grants."

30 Sec. 7. G.S. 159G-15 reads as rewritten:

31 "**§ 159G-15. Rules.**

32 (a) ~~The Office of State Budget and Management, Department of Environment,~~
33 Health, and Natural Resources, the Commission for Health Services~~Services,~~ and the
34 Environmental Management Commission may adopt, modify and repeal rules
35 establishing the procedures to be followed in the administration of this Chapter and
36 regulations interpreting and applying the provisions of this Chapter, as provided in the
37 Administrative Procedure Act. Uniform rules may be jointly adopted where feasible
38 and desirable, and no rule jointly adopted may be modified or revoked except upon
39 concurrence of all agencies involved.

40 (b) A copy of its rules adopted to implement the provisions of this Chapter shall
41 be furnished free of charge by the receiving agency and the ~~Office of State Budget and~~
42 Management-Department of Environment, Health, and Natural Resources to any local
43 government unit."

44 Sec. 8. G.S. 159G-16 reads as rewritten:

1 **"§ 159G-16. Federal grants and loans.**

2 In order to carry out the purpose of this Chapter to secure the greatest benefits
3 possible to the citizens of this State from the funds herein appropriated, the ~~Office of~~
4 ~~State Budget and Management, Department of Environment, Health, and Natural~~
5 ~~Resources, the Commission for Health Services Services, and the Environmental~~
6 Management Commission shall adopt such rules and criteria, not inconsistent with the
7 provisions of this Chapter, as are necessary and appropriate to conform to regulations
8 for federal grants and loans for any of the purposes set forth in this Chapter."

9 Sec. 9. G.S. 159G-17 reads as rewritten:

10 **"§ 159G-17. Annual reports to Joint Legislative Commission on Governmental**
11 **Operations.**

12 (a) ~~The Office of State Budget and Management, Department of Environment,~~
13 ~~Health, and Natural Resources, the Division of Environmental Health Health, and the~~
14 Environmental Management Commission shall prepare and file on or before July 31 of
15 each year with the Joint Legislative Commission on Governmental Operations a
16 consolidated report for the preceding fiscal year concerning the allocation of revolving
17 loans and grants authorized by this Chapter.

18 (b) ~~Office of State Budget and Management.~~—The portion of the report prepared by
19 the ~~Office of State Budget and Management Department of Environment, Health, and~~
20 ~~Natural Resources~~ shall set forth for the preceding fiscal year itemized and total
21 allocations from the Administrative Account for administrative expenses; itemized and
22 total allocations from the Wastewater Accounts of revolving loans and grants authorized
23 by the Environmental Management Commission; and itemized and total allocations
24 from the Water Supply Accounts of revolving loans and grants authorized by the
25 Division of Environmental Health. ~~The Office of State Budget and Management~~
26 ~~Department of Environment, Health, and Natural Resources~~ shall also prepare a
27 summary report of all allocations made from the Clean Water Revolving Loan and
28 Grant Fund for each fiscal year; the total funds received and allocations made; and
29 unallocated funds on hand in each account as of the end of the preceding fiscal year.

30 (c) Environmental Management Commission and Division of Environmental
31 Health. – The portions of the report prepared by the Environmental Management
32 Commission and the Division of Environmental Health shall include:

- 33 (1) Identification of each revolving loan and grant made by the receiving
34 agency during the preceding fiscal year; the total amount of the
35 revolving loan and grant commitments; the sums actually paid during
36 the preceding fiscal year to each revolving loan and grant made and to
37 each revolving loan and grant previously committed but unpaid; and
38 the total revolving loan and grant funds paid during the preceding
39 fiscal year.
- 40 (2) Itemization of expenditures of any administrative expense funds
41 allocated from the Administrative Account during the preceding fiscal
42 year.
- 43 (3) Summarization for all preceding years of the total number of revolving
44 loans and grants made; the total funds committed to such revolving

1 loans and grants; the total sum actually paid to such revolving loans
2 and grants and the total expenditure of administrative expense funds
3 allocated from the Administrative Account.

4 (4) Assessment and evaluation of the effects that approved projects have
5 had upon water pollution control and water supplies within the
6 purposes of this Chapter and with relation to the total water pollution
7 control and water supply problem.

8 (d) The report shall be signed by each of the chief executive officers of the State
9 agencies preparing the report."

10 Sec. 10. G.S. 159G-18(a) reads as rewritten:

11 "(a) Local government units may execute debt instruments payable to the State in
12 order to obtain revolving loans provided for in this Chapter. Local government units
13 shall pledge as security for such obligations the user fee revenues derived from
14 operation of the benefited facilities or systems only, or their faith and credit, or both.
15 The faith and credit of such local government units shall not be pledged or be deemed to
16 have been pledged unless the requirements of Article 4, Chapter 159 of the General
17 Statutes have been met. ~~The Office of State Budget and Management~~ Department of
18 Environment, Health, and Natural Resources and the State Treasurer, with the assistance
19 of the Local Government Commission, shall develop and adopt appropriate debt
20 instruments for use under this Chapter. The Local Government Commission shall
21 develop and adopt appropriate procedures for the delivery of debt instruments to the
22 State without any public bidding therefor."

23 Sec. 11. This act is effective upon ratification.