

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

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SENATE BILL 1354
Finance Committee Substitute Adopted 6/17/98

Short Title: Bonds/Critical Infrastructure Needs.

(Public)

Sponsors:

Referred to:

May 27, 1998

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE THE ISSUANCE OF GENERAL OBLIGATION BONDS OF THE STATE, SUBJECT TO A VOTE OF THE QUALIFIED VOTERS OF THE STATE, TO ADDRESS CRITICAL STATEWIDE NEEDS BY PROVIDING FUNDS (1) FOR GRANTS AND LOANS TO LOCAL GOVERNMENT UNITS FOR WATER SUPPLY AND DISTRIBUTION SYSTEMS, WASTEWATER COLLECTION SYSTEMS, WASTEWATER TREATMENT WORKS, WATER CONSERVATION PROJECTS, AND WATER REUSE PROJECTS AND (2) FOR GRANTS, LOANS, OR OTHER FINANCING TO PUBLIC OR PRIVATE ENTITIES FOR CONSTRUCTION OF NATURAL GAS FACILITIES.

The General Assembly of North Carolina enacts:

Section 1. Short title. This act shall be known as the "Clean Water and Natural Gas Bond Act of 1998".

Section 2. Purpose. It is the intent of the General Assembly by this act to provide for the issuance of general obligation bonds of the State and to provide that the proceeds realized from the sale of the bonds shall be allocated as follows:

(a) Clean Water Bonds.

(1) \$485,000,000 to provide State matching funds required to receive federal wastewater or water supply assistance funds and to provide

1 additional funding for the Clean Water Revolving Loan and Grant Fund
2 established in Chapter 159G of the General Statutes or to provide
3 funding by grants to local government units for wastewater treatment
4 and water supply and distribution needs.

- 5 (2) \$320,000,000 to provide loans to local government units to finance all
6 or a portion of the cost of construction, improvements, enlargements,
7 extensions, and reconstruction of water supply and distribution systems,
8 wastewater collection systems, wastewater treatment works, and water
9 conservation and water reuse projects.

10 The funds to be derived from the sale of the Clean Water Bonds
11 authorized by this act are sufficient to meet no more than a fraction of
12 the needs that now exist and will arise in the immediate future. For this
13 reason, although public necessity shall be the primary consideration in
14 granting and loaning funds, great emphasis shall also be placed on
15 achieving stringent reductions in the levels of nutrients and other
16 pollutants discharged into the State's waters, particularly in nutrient
17 sensitive river basins, in reducing the overall volume of effluent
18 discharged to the State's waters by using alternative methods of
19 wastewater treatment when feasible, on the creation of efficient systems
20 of regional wastewater disposal and regional water supply, and on the
21 willingness and ability of local government units to meet their
22 responsibilities through sound fiscal policies, creative planning, and
23 efficient operation and management. In addition, great emphasis shall
24 also be placed on the protection and improvement of fisheries habitats
25 for both saltwater and freshwater fish based upon recommendations
26 made by the Director of the Marine Fisheries Division of the
27 Department of Environment and Natural Resources.

28 (b) Natural Gas Bonds.

29 \$150,000,000 to provide grants, loans, or other financing to natural gas
30 local distribution companies, persons seeking natural gas distribution
31 franchises, State or local government agencies, or other entities for
32 construction of natural gas facilities.

33 Section 3. Definitions. As used in this act, unless the context otherwise
34 requires:

- 35 (1) "Bond rating" means the numerical rating of a unit of local government
36 developed by the NCMC. The rating formula is based on 100 being a
37 theoretically 'perfect' unit of local government and is an assessment of
38 the creditworthiness of the unit. Units of local government with a rating
39 below 75 or with no ratings have limited, if any, access to the private
40 markets for financing water and sewer or other debt.
- 41 (2) "Bonds" means bonds issued under this act.
- 42 (3) "Capacity grant" means a grant awarded by the Rural Economic
43 Development Center to a local government unit to pay all or a portion of

1 the cost associated with the planning and writing of a grant or loan
2 application, a capital improvement plan, or other efforts that support
3 growth and development of rural areas.

4 (4) " Capital improvement plan" means a report that identifies water and
5 sewer infrastructure and capital needs that address planned and strategic
6 growth. It shall include an assessment of current water and wastewater
7 systems and a projection of those infrastructure needs over a 20-year
8 horizon. The report shall take into consideration government mandates,
9 usefulness of the improvements to the community and the effect on both
10 short and long-term operation and maintenance of the scheduled
11 improvements and identifies alternatives for meeting the identified need
12 including regionalization, consolidation and system mergers, water
13 reuse and conservation.

14 (5) " Clean Water Revolving Loan and Grant Act" means Chapter 796 of
15 the 1987 Session Laws, as amended from time to time, codified as
16 Chapter 159G of the General Statutes.

17 (6) " Clean Water Revolving Loan and Grant Fund" means the Clean Water
18 Revolving Loan and Grant Fund as defined in the Clean Water
19 Revolving Loan and Grant Act.

20 (7) " Cost" means, without intending thereby to limit or restrict any proper
21 definition of this term in financing the cost of facilities or purposes
22 authorized by this act:

- 23 a. The cost of constructing, reconstructing, enlarging, acquiring,
24 and improving facilities, and acquiring equipment and land
25 therefor,
- 26 b. The cost of engineering, architectural, and other consulting
27 services as may be required,
- 28 c. Administrative expenses and charges,
- 29 d. Finance charges and interest prior to and during construction and,
30 if deemed advisable by the State Treasurer, for a period not
31 exceeding two years after the estimated date of completion of
32 construction,
- 33 e. The cost of bond insurance, investment contracts, credit
34 enhancement and liquidity facilities, interest-rate swap
35 agreements or other derivative products, financial and legal
36 consultants, and related costs of bond and note issuance, to the
37 extent and as determined by the State Treasurer,
- 38 f. The cost of reimbursing the State for any payments made for any
39 cost described above, and
- 40 g. Any other costs and expenses necessary or incidental to the
41 purposes of this act.

42 Allocations in this act of proceeds of bonds to the costs of a project or
43 undertaking in each case may include allocations to pay the costs set

- 1 forth in items c., d., e., f., and g. in connection with the issuance of
2 bonds for the project or undertaking.
- 3 (8) " Credit facility" means an agreement entered into by the State
4 Treasurer on behalf of the State with a bank, savings and loan
5 association, or other banking institution, an insurance company,
6 reinsurance company, surety company, or other insurance institution, a
7 corporation, investment banking firm, or other investment institution, or
8 any financial institution or other similar provider of a credit facility,
9 which provider may be located within or without the United States of
10 America, such agreement providing for prompt payment of all or any
11 part of the principal or purchase price (whether at maturity, presentment
12 or tender for purchase, redemption or acceleration), redemption
13 premium, if any, and interest on any bonds or notes payable on demand
14 or tender by the owner, in consideration of the State agreeing to repay
15 the provider of the credit facility in accordance with the terms and
16 provisions of such agreement.
- 17 (9) " Economically depressed area" means any of the following:
- 18 a. An economically distressed county as defined in G.S. 143B-
19 437.01.
- 20 b. That part of a rural county whose poverty rate is at least one
21 hundred fifty percent (150%) of the State poverty rate. For the
22 purpose of this section, the poverty rate is the percentage of the
23 population with income below the latest annual federal poverty
24 guidelines issued by the United States Department of Health and
25 Human Resources.
- 26 c. That part of a rural county that experiences an actual or imminent
27 loss of manufacturing jobs in a number that is equal to or exceeds
28 five percent (5%) of the total number of manufacturing jobs in
29 the part.
- 30 (10) " Local government units" means local government units as defined in
31 the Clean Water Revolving Loan and Grant Act.
- 32 (11) " NCMC" means the North Carolina Municipal Council, Inc., a
33 nonprofit North Carolina corporation which provides bond ratings, or
34 any successor thereto. In the event such corporation dissolves or no
35 longer performs the functions contemplated herein, such term shall
36 mean that comparable corporation designated by the State Treasurer.
- 37 (12) " Notes" means notes issued under this act.
- 38 (13) " 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 rates
40 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 close
43 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 (14) " Rural county" means a county with a density of less than 200 people
10 per square mile based on the United States census.
- 11 (15) " Rural Economic Development Center" means the Rural Economic
12 Development Center, Inc., a nonprofit North Carolina corporation, or
13 any successor thereto. In the event such corporation dissolves or no
14 longer performs the functions contemplated herein, such term shall
15 mean that comparable corporation designated by the Governor.
- 16 (16) " Supplemental grant" means a grant awarded by the Rural Economic
17 Development Center to a local government unit to assist in financing
18 wastewater collection systems, wastewater treatment works, water
19 conservation projects, water reuse projects, or water supply systems.
20 Supplemental grant funds shall supplement other funding and shall not
21 represent more than fifty percent (50%) of the total costs of the
22 wastewater collection systems, wastewater treatment works water
23 conservation projects, water reuse projects, or water supply systems
24 financed.
- 25 (17) " State" means the State of North Carolina.
- 26 (18) " Unsewered communities" means those communities lacking
27 centralized, publicly owned wastewater collection systems and
28 wastewater treatment works.
- 29 (19) " Wastewater collection systems" means wastewater collection systems
30 as defined in the Clean Water Revolving Loan and Grant Act.
- 31 (20) " Wastewater treatment works" means wastewater treatment works as
32 defined in the Clean Water Revolving Loan and Grant Act.
- 33 (21) " Water conservation projects" include, but are not limited to, any
34 construction, repair, renovation, expansion, replacement of components,
35 or other capital improvement, including related equipment and land
36 acquisition, designed to:
- 37 a. Eliminate the wasteful or unnecessary use or loss of water in the
38 operations of a wastewater collection system, wastewater
39 treatment works, or water supply system; or
40 b. Enhance the operation of a wastewater collection system,
41 wastewater treatment works, or water supply system to provide a
42 more efficient use of water.

1 (22) " Water Pollution Control Revolving Fund" means the fund described
2 by G.S. 159G-4(a) and G.S. 159G-5(c).

3 (23) " Water reuse" means the actual use or application of treated wastewater
4 in or on areas which require water but do not require potable water
5 quality.

6 (24) " Water supply systems" means water supply systems as defined in the
7 Clean Water Revolving Loan and Grant Act.

8 Section 4. Authorization of bonds and notes. (a) Clean Water Bonds. Subject
9 to a favorable vote of a majority of the qualified voters of the State who vote on the
10 question of issuing Clean Water Bonds in the election called and held as provided in this
11 act, the State Treasurer is hereby authorized, by and with the consent of the Council of
12 State, to issue and sell, at one time or from time to time, general obligation bonds of the
13 State to be designated "State of North Carolina Clean Water Bonds", with any additional
14 designations as may be determined to indicate the issuance of bonds from time to time, or
15 notes of the State as provided in this act, in an aggregate principal amount not exceeding
16 eight hundred five million dollars (\$805,000,000) for the purpose of providing funds,
17 with any other available funds, for the purposes authorized in this act.

18 (b) Natural Gas Bonds. Subject to a favorable vote of a majority of the
19 qualified voters of the State who vote on the question of issuing Natural Gas Bonds in the
20 election called and held as provided in this act, the State Treasurer is hereby authorized,
21 by and with the consent of the Council of State, to issue and sell, at one time or from time
22 to time, general obligation bonds of the State to be designated "State of North Carolina
23 Natural Gas Bonds", with any additional designations as may be determined to indicate
24 the issuance of bonds from time to time, or notes of the State as provided in this act, in an
25 aggregate principal amount not exceeding one hundred fifty million dollars
26 (\$150,000,000) for the purpose of providing funds, with any other available funds, for the
27 purposes authorized in this act.

28 Section 5. Uses of bond and note proceeds.

29 (a) Clean Water Bonds. The proceeds of Clean Water Bonds and notes shall be
30 used for the purpose of making loans and grants to local governments as follows:

31 (1) The proceeds of three hundred sixty-five million dollars (\$365,000,000)
32 of Clean Water Bonds shall be used by the Department of Environment
33 and Natural Resources to provide State matching funds required to
34 receive federal wastewater or water supply assistance funds and for
35 grants to local government units for the same purposes for which funds
36 in the Clean Water Revolving Loan and Grant Fund may be used. The
37 grants shall be made for the purpose of paying the cost of water supply
38 systems, wastewater collection systems, wastewater treatment works,
39 water conservation projects, and water reuse projects.

40 Of the proceeds of the three hundred sixty-five million dollars
41 (\$365,000,000) referred to in this Section 5(a)(1) above, the sum of
42 three hundred thirty million dollars (\$330,000,000) shall be allocated as
43 follows:

- 1 a. High-Unit Cost Wastewater Account
- 2 1. Reserved for grants to local government units
- 3 whose bond rating is less than 75 or who have no bond
- 4 rating....\$85,000,000
- 5 2. Reserved for grants to local government units whose bond
- 6 rating is 75 or more.....\$80,000,000
- 7 b. High-Unit Cost Water Supply Account
- 8 1. Reserved for grants to local government units
- 9 whose bond rating is less than 75 or who have no bond
- 10 rating...\$85,000,000
- 11 2. Reserved for grants to local government units whose bond
- 12 rating is 75 or greater.....\$80,000,000

13 The proceeds may be (i) transferred directly to the Clean Water
 14 Revolving Loan and Grant Fund to make grants, (ii) used to make
 15 grants directly to the appropriate local government qualifying for a grant
 16 from the Clean Water Revolving Loan and Grant Fund, (iii) used for
 17 any combination of (i) and (ii), or (iv) used in such other manner as
 18 shall effectuate the clean water purposes of this act.

19 Although public necessity and the criteria established by Chapter
 20 159G of the General Statutes shall be the primary considerations in
 21 granting funds, great emphasis shall also be placed on achieving
 22 stringent reductions in the levels of nutrients and other pollutants
 23 discharged into the State's waters, particularly in nutrient sensitive river
 24 basins, in reducing the overall volume of effluent discharged to the
 25 State's waters by using alternative methods of wastewater treatment
 26 when feasible, on the creation of efficient systems of regional
 27 wastewater disposal and regional water supply, on the willingness and
 28 ability of local government units to meet their responsibilities through
 29 sound fiscal policies, creative planning, and efficient operation and
 30 management, and on having a capital improvement plan. In addition,
 31 great emphasis shall also be placed on the protection and improvement
 32 of fisheries habitats for both saltwater and freshwater fish based upon
 33 recommendations made by the Director of the Marine Fisheries Division
 34 of the Department of Environment and Natural Resources. Grants made
 35 from bond proceeds transferred from the Clean Water Bonds Fund to
 36 the Clean Water Revolving Loan and Grant Fund shall be made and
 37 administered in accordance with the provisions of the Clean Water
 38 Revolving Loan and Grant Act. Grants made from bond proceeds
 39 directly to local government units shall, to the extent applicable, be
 40 made, administered, and applied in accordance with the provisions of
 41 the Clean Water Revolving Loan and Grant Act.

42 Of the proceeds of the three hundred sixty-five million dollars
 43 (\$365,000,000) referred to in this Section 5(a)(1) above, the sum of

1 thirty-five million dollars (\$35,000,000) shall be used to provide State
2 funds necessary for the 1999-2000, 2000-2001, 2001-2002, 2002-2003,
3 and 2003-2004 fiscal years to match the federal wastewater or water
4 supply assistance funds deposited in the Water Pollution Control
5 Revolving Fund or another fund that is used to pay the cost of water
6 supply systems, wastewater collection systems, or wastewater treatment
7 works and is eligible to receive federal matching funds, unless the
8 General Assembly has provided the required match through other
9 sources, in which event this priority shall cease to exist to the extent of
10 the availability of the other sources. For the purpose of implementing
11 this priority, the Department of Environment and Natural Resources
12 shall certify to the State Treasurer the amount of funds required for the
13 State match for each of the fiscal years ending June 30, 1999, June 30,
14 2000, June 30, 2001, June 30, 2002, June 30, 2003, and June 30, 2004,
15 and the extent to which the General Assembly has provided other funds
16 for this purpose. Upon certification each year of the amount of funds
17 required for the State match for that fiscal year, the State Treasurer may
18 issue from the thirty-five million dollars (\$35,000,000) the amount
19 certified up to thirty-five million dollars (\$35,000,000). Upon
20 certification for the State match required for the fiscal year ending June
21 30, 2004, the State Treasurer may issue the remaining balance of the
22 thirty-five million dollars (\$35,000,000) of the Clean Water Bonds
23 authorized by this subdivision for the purpose of funding the State
24 match for that fiscal year and for any other purposes authorized by this
25 subdivision. The proceeds of the bonds necessary for the State match
26 for each fiscal year shall be deposited in the Water Pollution Control
27 Revolving Fund or another appropriate fund or account determined by
28 the State Treasurer.

- 29 (2) The proceeds of fifty million dollars (\$50,000,000) of Clean Water
30 Bonds shall be used to provide grants to eligible local government units
31 to assist with wastewater treatment works and wastewater collection
32 systems. Such grants shall be awarded and administered by the Rural
33 Economic Development Center.

34 The proceeds of this fifty million dollars (\$50,000,000) of Clean
35 Water Bonds shall be awarded on the following criteria:

- 36 a. The applicant shall be a local government unit.
37 b. The applicant's population shall not exceed 3,500 persons using
38 the most recently available certified population estimates.
39 c. The applicant shall be an unsewered community.
40 d. The applicant's median household income shall not exceed eighty
41 percent (80%) of the national median household income using
42 the most recently updated income figures made available from
43 the Bureau of the Census.

1 Although public necessity and the criteria listed above shall be the
2 primary consideration for granting funds, great emphasis shall also be
3 placed on achieving stringent reductions in the levels of nutrients and
4 other pollutants discharged into the State's waters, particularly in
5 nutrient sensitive river basins, in reducing the overall volume of effluent
6 discharged to the State's waters by using alternative methods of
7 wastewater treatment when feasible, on the creation of efficient systems
8 of regional wastewater disposal and regional water supply, and on the
9 willingness and ability of local government units to meet their
10 responsibilities through sound fiscal policies, creative planning, and
11 efficient operation and management. In addition, great emphasis shall
12 also be placed on the protection and improvement of fisheries habitats
13 for both saltwater and freshwater fish based upon recommendations
14 made by the Director of the Marine Fisheries Division of the
15 Department of Environment and Natural Resources.

16 An applicant may be eligible for up to ninety percent (90%) of the
17 total project cost subject to average annual water and wastewater cost
18 per household (combined average annual charge per user rate)
19 calculated at one and one-half percent (1 1/2%) of the median household
20 income of the applicant. If the applicant is an unsewered community, it
21 must submit as a part of the application packet a preliminary
22 engineering report including an analysis of possible wastewater service
23 alternatives, and an environmental assessment. In addition, special
24 consideration shall also be placed on having a capital improvement plan.

25 The Rural Economic Development Center shall award grants to units
26 of local government for the purposes authorized by this Section 5(a)(2)
27 in accordance with the criteria set forth above. The proceeds of the
28 Clean Water Bonds issued for the purpose described in this Section
29 shall be held in the Clean Water Bonds Fund until needed for
30 expenditure by the grantee for the payment of costs for the purposes for
31 which the grant is made. The Rural Economic Development Center
32 shall maintain records that document the timing and purpose for which
33 each expenditure of proceeds of a grant is made and shall furnish such
34 records to the Secretary of Commerce at the time a request for payment
35 to or on behalf of a grantee is to be made.

36 At the end of each fiscal year the Secretary of Commerce shall review
37 the grants awarded by the Rural Economic Development Center with
38 proceeds from the Clean Water Bonds to verify that the grants awarded
39 comply with the requirements of this act. The Secretary of Commerce
40 shall provide his or her findings regarding compliance in writing to the
41 State Treasurer.

42 At the time that the Rural Economic Development Center provides
43 information to the Secretary of Commerce as to the grants awarded

1 during the preceding fiscal year, the Rural Economic Development
2 Center shall also provide the Secretary of Commerce with a copy of all
3 records of the Rural Economic Development Center from the preceding
4 fiscal year (to the extent not previously provided to the Secretary) that
5 document the timing and purposes of the expenditures by the grantee
6 units of local government of the proceeds of the grants funded from the
7 proceeds of the Clean Water Bonds.

8 (3) The proceeds of fifty million dollars (\$50,000,000) of Clean Water
9 Bonds shall be used to provide supplemental and capacity grants to
10 eligible local government units to match federal, State, and other grant
11 or loan program funds to plan or improve needed water and sewer
12 projects in economically depressed areas of North Carolina. Such
13 grants shall be awarded and administered by the Rural Economic
14 Development Center. Those proceeds shall be allocated as follows:

- 15 a. Supplemental Grants.....\$40,000,000
16 b. Capacity Grants.....\$10,000,000

17 The Rural Economic Development Center shall certify to the State
18 Treasurer the amount of funds required, not to exceed eight million
19 dollars (\$8,000,000) for supplemental grants, not to exceed two million
20 dollars (\$2,000,000) for capacity grants, and not to exceed a total of ten
21 million dollars (\$10,000,000) in supplemental and capacity grants, for
22 each of the fiscal years ending June 30, 1999, June 30, 2000, June 30,
23 2001, June 30, 2002, June 30, 2003, and June 30, 2004. Upon
24 certification each year of the amount of funds required for that fiscal
25 year, the State Treasurer may issue the amount certified up to ten
26 million dollars (\$10,000,000). Upon certification for the fiscal year
27 ending June 30, 2004, the State Treasurer may issue the remaining
28 balance of the fifty million dollars (\$50,000,000) of the Clean Water
29 Bonds authorized by this subdivision for any other purposes authorized
30 by this subdivision.

31 Grants made from the proceeds of this fifty million dollars
32 (\$50,000,000) for supplemental grants or capacity grants shall be based
33 on the following criteria:

- 34 a. The applicant shall be a local government unit.
35 b. The applicant shall be a rural county or a local government unit
36 located in a rural county.
37 c. Second priority shall be given to a water supply system,
38 wastewater collection system, or wastewater treatment work that
39 creates or retains jobs. First priority shall be given to a water
40 supply system, wastewater collection system, or wastewater
41 treatment work that eliminates an imminent and identifiable
42 threat to public health. A water supply system, wastewater
43 collection system, or wastewater treatment work shall also

1 receive funding priority if such project is located in an
2 economically distressed county as defined in G.S. 143B-437.01.
3 A water supply system, wastewater collection system, or
4 wastewater treatment work shall also receive funding priority if:
5 (i) the system is located within an economically distressed county
6 as defined in G.S. 143B-437.01, (ii) the system proposes water
7 conservation or water reuse as a project component, or (iii) the
8 system proposes an alternative management structure such as, but
9 not limited to, regionalization, consolidation or system merger.

- 10 d. A water supply system, wastewater collection system, or
11 wastewater treatment work that is proposed in a nondistressed
12 county must meet at least one of the following criteria: (i) be
13 located in that part of a rural nondistressed county where the
14 poverty rate is at least one hundred fifty percent (150%) of the
15 State poverty rate, (ii) be located in that part of a rural
16 nondistressed county where the unemployment rate is at least
17 double the State unemployment rate for the most recent reporting
18 period available, (iii) be located in that part of a rural
19 nondistressed county that experiences an actual or imminent loss
20 of jobs in a number that equals or exceeds five percent (5%) of
21 the total number of jobs in that part of the county, or (iv) be a
22 water or sewer project located in an economically distressed
23 community experiencing health-related or environmental quality
24 problems. Any grant awarded for a water supply system,
25 wastewater collection system, or wastewater treatment work in a
26 nondistressed county shall be matched by the applicant on a
27 dollar-for-dollar basis in the amount of the grant awarded.

28 Although public necessity and the criteria listed above shall be the
29 primary consideration in granting these funds, great emphasis shall also
30 be placed on achieving stringent reductions in the levels of nutrients and
31 other pollutants discharged into the State's waters, particularly in
32 nutrient sensitive river basins, in reducing the overall volume of effluent
33 discharged to the State's waters by using alternative methods of
34 wastewater treatment when feasible, on the creation of efficient systems
35 of regional wastewater disposal and regional water supply, on the
36 willingness and ability of local government units to meet their
37 responsibilities through sound fiscal policies, creative planning, and
38 efficient operation and management, and on having a capital
39 improvement plan. In addition, great emphasis shall also be placed on
40 the protection and improvement of fisheries habitats for both saltwater
41 and freshwater fish based upon recommendations made by the Director
42 of the Marine Fisheries Division of the Department of Environment and
43 Natural Resources.

1 The Rural Economic Development Center shall award grants to units
2 of local government for the purposes authorized by this Section 5(a)(3)
3 in accordance with the criteria set forth above. The proceeds of the
4 Clean Water Bonds issued for the purpose described in this Section
5 shall be held in the Clean Water Bonds Fund until needed for
6 expenditure by the grantee for the payment of costs for the purposes for
7 which the grant is made. The Rural Economic Development Center
8 shall maintain records that document the timing and purpose for which
9 each expenditure of proceeds of a grant is made and shall furnish such
10 records to the Secretary of Commerce at the time a request for a
11 payment to or on behalf of a grantee is to be made.

12 At the end of each fiscal year the Secretary of Commerce shall review
13 the grants awarded by the Rural Economic Development Center with
14 proceeds from the Clean Water Bonds to verify that the grants awarded
15 comply with the requirements of this act. The Secretary of Commerce
16 shall provide his or her findings regarding compliance in writing to the
17 State Treasurer. At the time the Rural Economic Development Center
18 provides information to the Secretary of Commerce as to the grants
19 awarded during the preceding fiscal year, the Rural Economic
20 Development Center shall also provide the Secretary of Commerce with
21 a copy of all records of the Rural Economic Development Center from
22 the preceding fiscal year (to the extent not previously provided to the
23 Secretary) that document the timing and purposes of the expenditures by
24 the grantee units of local government of the proceeds of the grants
25 funded from proceeds of the Clean Water Bonds.

- 26 (4) The proceeds of twenty million dollars (\$20,000,000) of Clean Water
27 Bonds shall be used for the purpose of making grants to local
28 government units to pay the cost of clean water projects in connection
29 with the location of industry to, and expansion of industry in, the State.
30 These grants shall be awarded and administered by the Department of
31 Commerce.

32 Ten million dollars (\$10,000,000) of the amount available for grants
33 pursuant to this Section 5(a)(4) shall be applied to pay the costs of
34 grants awarded in the same manner as funds in the Industrial
35 Development Fund created in G.S. 143B-437.01(a), for use in
36 accordance with G.S. 143B-437.01(a), subject to the further limitations
37 on the provisions of G.S. 143B-437.01(a) set forth below. Ten million
38 dollars (\$10,000,000) of the amount available for grants pursuant to this
39 Section 5(a)(4) shall be applied to pay the costs of grants awarded in the
40 same manner as funds in the Utility Account of the Industrial
41 Development Fund created in G.S. 143B-437.01(b), for use in
42 accordance with G.S. 143B-437.01(b), subject to the further limitations
43 on the provisions of G.S. 143B-437.01(b) set forth below. In applying

1 the provisions of G.S. 143B-437.01(a) or G.S. 143B-437.01(b), as the
2 case may be, the following exceptions shall apply:

- 3 a. The funds shall be used only for grants to local governments, not
4 for loans.
- 5 b. Grants shall be awarded only to projects the Secretary of
6 Commerce finds will have a favorable impact on the clean water
7 objectives of the State.
- 8 c. The only purposes for which grants may be made are
9 construction of or improvements to new or existing water or
10 sewer distribution lines or equipment or construction of or
11 improvements to new or existing wastewater treatment works.
- 12 d. The amendments to G.S. 143B-437.01 enacted by the 1997
13 General Assembly during the 1998 Regular Session also govern
14 the use of these funds, to the extent they are not inconsistent with
15 this Section 5(a)(4).
- 16 e. The provisions of G.S. 143B-437.01(a) or G.S. 143B-437.01(b),
17 as the case may be, that limit the expenditure of funds to costs of
18 utility lines or facilities located on the site of the new or proposed
19 industrial building or that are directly related to the operation of
20 the specific industrial activity at the building, shall not apply if
21 the utility lines or facilities being provided will further the clean
22 water objectives of the State.

23 The General Assembly finds that the purpose of providing water and
24 sewer distribution lines and wastewater treatment works in
25 economically distressed counties is to provide clean water in North
26 Carolina in several different ways. First, these projects will reduce
27 industrial reliance on wells, septic tanks, and other similar facilities.
28 Second, when a distribution line is extended to an industrial facility in
29 an area not otherwise served by water and sewer infrastructure,
30 residents, other businesses, and local governments can hook into the
31 distribution line, bringing clean water, wastewater treatment, or both to
32 the unserved area. Also, the installation and expansion of water supply
33 and wastewater treatment facilities to provide water supply and
34 wastewater treatment in connection with new or expanding industry will
35 result in additional water supply and treatment facilities available to the
36 residents, other businesses, and local governments in the area where the
37 installation or expansion occurs.

38 The proceeds of the Clean Water Bonds, issued for the purpose
39 described in this Section 5(a)(4), shall be held in the Clean Water Bonds
40 Fund until needed for expenditure by the grantee for the payment of the
41 cost for the purpose for which the grant is made. The Department of
42 Commerce shall maintain records that document the timing and purpose
43 for which each expenditure of proceeds of a grant is made.

(5) The proceeds of three hundred twenty million dollars (\$320,000,000) of Clean Water Bonds shall be used for the purpose of making loans to local government units to pay the cost of water supply systems, water conservation projects, water reuse projects, wastewater collection systems, and wastewater treatment works. The proceeds shall be allocated as follows:

- a. Wastewater collection systems and wastewater treatment works.
 - 1. Reserved for loans to local government units whose bond rating is less than 75 or who have no bond rating.....\$10,000,000
 - 2. Reserved for loans to local government units whose bond rating is 75 or more.....\$150,000,000
- b. Water supply systems and water conservation projects.
 - 1. Reserved for loans to local government units whose bond rating is less than 75 or who have no bond rating.....\$10,000,000
 - 2. Reserved for loans to local government units whose bond rating is 75 or more.....\$150,000,000

The proceeds shall be used to make loans directly to local government units qualifying for a loan from the Clean Water Revolving Loan and Grant Fund or loaned in such other manner as shall effectuate the purposes of this act. To qualify for a loan for the purpose of paying the cost of water supply systems, a local government unit must have a water supply facility plan approved by the Department of Environment and Natural Resources. A water supply facility plan submitted by a local government unit to the Department under G.S. 143-355(1) will be sufficient to meet this requirement. To qualify for a loan for the purpose of paying the cost of wastewater collection systems or wastewater treatment works, a local government unit must have a wastewater facility plan approved by the Department of Environment and Natural Resources. A wastewater facility plan must project future wastewater treatment needs, must present a long-range plan to meet those needs, and must include plans for system operations and maintenance of the facilities being built with the bond proceeds. In addition, great emphasis shall also be placed on having a capital improvement plan.

The Department of Environment and Natural Resources shall set the priorities and determine the eligibility of local government units for these loans in accordance with Section 10 of this act. In addition to those priorities, great emphasis shall also be placed on the protection and improvement of fisheries habitats for both saltwater and freshwater fish based upon recommendations made by the Director of the Marine Fisheries Division of the Department of Environment and Natural

1 Resources. The form of the loans and the details thereof including,
2 without limitation, the maturity, interest rate, and amortization schedule
3 shall be determined, from time to time, by the State Treasurer. In
4 making these determinations, the State Treasurer shall consider the
5 purpose of the loans, the ability of local government units to repay the
6 loans, and the security for the loans. The interest rates on these loans
7 shall reflect the self-supporting nature of the loan program and shall be
8 sufficient to cover substantially all payments of debt service on the three
9 hundred twenty million dollars (\$320,000,000) of Clean Water Bonds
10 and the issuance costs and administrative expenses associated with the
11 issuance of these bonds and the making of these loans, subject to any
12 applicable requirements of the federal tax law.

13 Repayments of the loans shall be credited to the General Fund and
14 may be used to pay, directly or indirectly, debt service on the bonds and
15 notes issued. Repayments may be initially placed into such fund or
16 account as may be determined by the State Treasurer for the purpose of
17 determining compliance with applicable requirements of the federal tax
18 law and shall be expended and disbursed therefrom under the direction
19 and supervision of the Director of the Budget.

- 20 (6) The General Assembly may at this Session or at any subsequent Session
21 increase or decrease the allocations of the proceeds of the Clean Water
22 Bonds set forth in (1), (2), (3), (4), and (5) above, so long as the
23 aggregate amount of the allocations does not exceed eight hundred five
24 million dollars (\$805,000,000).

25 (b) Natural Gas Bonds. The proceeds of Natural Gas Bonds and notes shall be
26 used for the purpose of providing grants, loans, or other financing to natural gas local
27 distribution companies, persons seeking natural gas distribution franchises, State or local
28 government agencies, or other entities for the costs of constructing natural gas facilities,
29 including pipelines, compressors, interests in real property, and related equipment for the
30 delivery of natural gas in order to facilitate the expansion of natural gas facilities to
31 unserved areas of the State in accordance with the findings of the General Assembly
32 described in Section 16 of this act.

33 Section 6. Allocation of proceeds. (a) Clean Water Bonds. The proceeds of
34 Clean Water Bonds and notes, including premium thereon, if any, except the proceeds of
35 bonds the issuance of which has been anticipated by bond anticipation notes or the
36 proceeds of refunding bonds or notes, shall be placed by the State Treasurer in a special
37 fund to be designated "Clean Water Bonds Fund", which may include such appropriate
38 special accounts therein as may be determined by the State Treasurer and shall be
39 disbursed as provided in this act. Moneys in the Clean Water Bonds Fund shall be
40 allocated and expended as provided in this act.

41 Any additional moneys which may be received by means of a grant or grants
42 from the United States of America or any agency or department thereof or from any other
43 source for deposit to the Clean Water Bonds Fund may be placed in the Clean Water

1 Bonds Fund or in a separate account or fund and shall be disbursed, to the extent
2 permitted by the terms of the grant or grants, without regard to any limitations imposed
3 by this act.

4 Moneys in the Clean Water Bonds Fund or in any separate clean water fund or
5 account established under this act may be invested from time to time by the State
6 Treasurer in the same manner permitted for investment of moneys belonging to the State
7 or held in the State treasury, except with respect to grant money to the extent otherwise
8 directed by the terms of the grant. Investment earnings, except investment earnings with
9 respect to grant moneys to the extent otherwise directed or restricted by the terms of the
10 grant, may be (i) credited to the Clean Water Bonds Fund, or any separate clean water
11 fund or account established under this act, (ii) used to pay debt service on the Clean
12 Water Bonds authorized by this act, (iii) used to satisfy compliance with applicable
13 requirements of the federal tax law, or (iv) transferred to the General Fund of the State.

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

25 (b) Natural Gas Bonds. The proceeds of Natural Gas Bonds and notes,
26 including premium thereon, if any, except the proceeds of bonds the issuance of which
27 has been anticipated by bond anticipation notes or the proceeds of refunding bonds or
28 notes, shall be placed by the State Treasurer in a special fund to be designated "Natural
29 Gas Bonds Fund", which may include such appropriate special accounts therein as may
30 be determined by the State Treasurer, and shall be disbursed as provided in this act.
31 Moneys in the Natural Gas Bonds Fund shall be allocated and expended as provided in
32 this act. The proceeds may be used in accordance with G.S. 62-159 or may be distributed
33 in accordance with the provisions of legislation enacted by the General Assembly in 1998
34 or later providing for the allocation of the bond proceeds for the purposes provided in this
35 act.

36 Any additional moneys which may be received by means of a grant or grants
37 from the United States of America or any agency or department thereof or from any other
38 source to aid in financing the cost of any natural gas grants authorized by this act may be
39 placed by the State Treasurer in the Natural Gas Bonds Fund or in a separate account or
40 fund and shall be disbursed, to the extent permitted by the terms of the grant or grants,
41 without regard to any limitations imposed by this act.

42 Moneys in the Natural Gas Bonds Fund or any separate natural gas fund or
43 account established under this act may be invested from time to time by the State

1 Treasurer in the same manner permitted for investment of moneys belonging to the State
2 or held in the State treasury, except with respect to grant money to the extent otherwise
3 directed by the terms of the grant. Investment earnings, except investment earnings with
4 respect to grant money to the extent otherwise directed or restricted by the terms of the
5 grant, may be (i) credited to the Natural Gas Bonds Fund or any separate natural gas fund
6 or account established under this act; (ii) used to pay debt service on the Natural Gas
7 Bonds authorized by this act; (iii) used to satisfy compliance with applicable
8 requirements of the federal tax law; or (iv) transferred to the General Fund of the State.

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

21 The North Carolina Utilities Commission shall provide quarterly reports to the
22 Joint Legislative Commission on Governmental Operations, the Chairs of the Senate and
23 House of Representatives Appropriations Committees, and the Fiscal Research Division
24 on the expenditure of moneys from the Natural Gas Bonds Fund.

25 (c) Costs. Allocations to the costs of a capital improvement or undertaking in
26 each case may include allocations to pay the costs set forth in Section 3(7)c., d., e., f., and
27 g. of this act in connection with the issuance of bonds for that capital improvement or
28 undertaking.

29 Section 7. Election. The questions of the issuance of the bonds authorized by
30 this act shall be submitted to the qualified voters of the State at an election to be held on
31 the first Tuesday after the first Monday of November 1998. Any other primary, election,
32 or referendum validly called or scheduled by law at the time the election on the bond
33 question provided for in this section is held, may be held as called or scheduled. Notice
34 of the election shall be given in the manner and at the times required by G.S. 163-33(8).
35 The election and the registration of voters therefor shall be held under and in accordance
36 with the general laws of the State. Absentee ballots shall be authorized in the election.

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

41 Ballots, voting systems authorized by Article 14 of Chapter 163 of the General
42 Statutes, or both may be used in accordance with rules prescribed by the State Board of

1 Elections. The bond questions to be used in the ballots or voting systems shall be in
2 substantially the following form:

3 " FOR AGAINST

4 the issuance of eight hundred five million dollars (\$805,000,000) State of North Carolina
5 Clean Water Bonds constituting general obligation bonds of the State secured by a pledge
6 of the faith and credit and taxing power of the State for the purpose of providing funds,
7 with any other available funds, to make loans and grants to local government units to pay
8 all or a portion of the cost of clean water projects."

9 " FOR AGAINST

10 the issuance of one hundred fifty million dollars (\$150,000,000) State of North Carolina
11 Natural Gas Bonds constituting general obligation bonds of the State secured by a pledge
12 of the faith and credit and taxing power of the State for the purpose of providing funds,
13 with any other available funds, to provide grants, loans, or other financing to public or
14 private entities for construction of natural gas facilities in order to facilitate the
15 expansion of natural gas facilities to unserved portions of the State."

16 If a majority of those voting on a bond question in the election vote in favor of
17 the issuance of the bonds described in the question, those bonds may be issued as
18 provided in this act. If a majority of those voting on a bond question in the election vote
19 against the issuance of the bonds described in the question, those bonds shall not be
20 issued.

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

25 Section 8. Issuance of bonds and notes. (a) Terms and Conditions. Bonds or notes
26 may bear such date or dates, may be serial or term bonds or notes, or any combination
27 thereof, may mature in such amounts and at such time or times, not exceeding 40 years
28 from their date or dates, may be payable at such place or places, either within or without
29 the United States of America, in such coin or currency of the United States of America as
30 at the time of payment is legal tender for payment of public and private debts, may bear
31 interest at such rate or rates, which may vary from time to time, and may be made
32 redeemable before maturity, at the option of the State or otherwise as may be provided by
33 the State, at such price or prices, including a price less than the face amount of the bonds
34 or notes, and under such terms and conditions, all as may be determined by the State
35 Treasurer, by and with the consent of the Council of State.

36 (b) Signatures; Form and Denomination; Registration. Bonds or notes may be
37 issued as certificated or uncertificated obligations. If issued as certificated obligations,
38 bonds or notes shall be signed on behalf of the State by the Governor or shall bear his
39 facsimile signature, shall be signed by the State Treasurer or shall bear his facsimile
40 signature, and shall bear the Great Seal of the State or a facsimile thereof shall be
41 impressed or imprinted thereon. If bonds or notes bear the facsimile signatures of the
42 Governor and the State Treasurer, the bonds or notes shall also bear a manual signature
43 which may be that of a bond registrar, trustee, paying agent, or designated assistant of the

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

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

25 (d) Notes; Repayment.

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

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

41 (2) Funds derived from the sale of bonds or notes may be used in the
42 payment of any bond anticipation notes issued under this act. Funds
43 provided by the General Assembly for the payment of interest on or

1 principal of bonds shall be used in paying the interest on or principal of
2 any notes and any renewals thereof, the proceeds of which shall have
3 been used in paying interest on or principal of the bonds.

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

9 (f) Tax Exemption. Bonds and notes shall be exempt from all State, county,
10 and municipal taxation or assessment, direct or indirect, general or special, whether
11 imposed for the purpose of general revenue or otherwise, excluding inheritance and gift
12 taxes, income taxes on the gain from the transfer of bonds and notes, and franchise taxes.
13 The interest on bonds and notes shall not be subject to taxation as to income.

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

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

33 Section 9. Variable interest rates. In fixing the details of bonds and notes, the
34 State Treasurer may provide that any of the bonds or notes may:

- 35 (1) Be made payable from time to time on demand or tender for purchase
36 by the owner thereof provided a credit facility supports the bonds or
37 notes, unless the State Treasurer specifically determines that a credit
38 facility is not required upon a finding and determination by the State
39 Treasurer that the absence of a credit facility will not materially or
40 adversely affect the financial position of the State and the marketing of
41 the bonds or notes at a reasonable interest cost to the State;
42 (2) Be additionally supported by a credit facility;

- 1 (3) Be made subject to redemption or a mandatory tender for purchase prior
2 to maturity;
- 3 (4) Bear interest at a rate or rates that may vary for such period or periods
4 of time, all as may be provided in the proceedings providing for the
5 issuance of the bonds or notes, including, without limitation, such
6 variations as may be permitted pursuant to a par formula; and
- 7 (5) Be made the subject of a remarketing agreement whereby an attempt is
8 made to remarket bonds or notes to new purchasers prior to their
9 presentment for payment to the provider of the credit facility or to the
10 State.

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

19 Section 10. Special provisions governing clean water loans. (a) Scope. The
20 provisions of this section shall apply to loans being made from the proceeds of bonds
21 authorized by this act for clean water projects, other than from funds deposited in the
22 Clean Water Revolving Loan and Grant Fund.

23 (b) Clean Water Bonds Loan Account. There is established in the Clean Water
24 Bonds Fund a special account to be known as the Clean Water Bonds Loan Account,
25 which may include any special or segregated accounts the State Treasurer considers
26 appropriate. There shall be deposited in the Clean Water Bonds Loan Account proceeds
27 of the Clean Water Bonds and notes to be used to make loans, other than loans to be
28 made through the Clean Water Revolving Loan and Grant Fund, to local government
29 units for clean water projects as provided in this act.

30 Except as otherwise permitted by Section 5 of this act with respect to the use of
31 investment earnings, all moneys accruing to the credit of the Clean Water Bonds Loan
32 Account, other than funds set aside for administrative expenses, including expenses
33 related to determining compliance with applicable requirements of the federal tax law and
34 costs of issuance, shall be used to make loans for the purposes provided in this act. The
35 State Treasurer shall be responsible for making and administering all loans pursuant to
36 the provisions of this section.

37 (c) Application for Loans; Hearings.

38 (1) Eligibility/Initial Hearing.

39 a. Prior to filing an application for a loan, a local government unit
40 shall hold a public hearing. A notice of the public hearing shall
41 be published once at least 10 days before the date fixed for the
42 hearing.

1 b. All applications for loans shall be filed with the Department of
2 Environment and Natural Resources. The form of the application
3 shall be prescribed by the Department and shall require any
4 information necessary to determine the eligibility for a loan
5 under the provisions of this section. All applications approved
6 by the Department of Environment and Natural Resources shall
7 be filed with the Local Government Commission. Each applicant
8 shall furnish to the Department of Environment and Natural
9 Resources and the Local Government Commission information
10 in addition or supplemental to the information contained in its
11 application, upon request.

12 c. A local government unit shall not be eligible for a loan unless it
13 demonstrates to the satisfaction of the Department of
14 Environment and Natural Resources and the Local Government
15 Commission that:

- 16 1. The applicant is a local government unit;
- 17 2. The applicant has the financial capacity to pay the
18 principal of and interest on its proposed loan as evidenced
19 by the approval of the Local Government Commission;
- 20 3. The applicant has substantially complied or will
21 substantially comply with all applicable laws, rules,
22 regulations, and ordinances, whether federal, State, or
23 local; and
- 24 4. The applicant has agreed by official resolution to adopt
25 and place into effect a schedule of fees and charges or the
26 application of other sources of revenue which will provide
27 adequate funds for proper operation, maintenance, and
28 administration of the project and repayment of all
29 principal and interest on the loan.

30 (2) Assessment. The Department of Environment and Natural Resources
31 may require any applicant to file with its application an assessment of
32 the impact the project for which the funds are sought will have upon
33 meeting the facility needs of the area within which the project is to be
34 located.

35 (3) Hearing by the Department of Environment and Natural Resources or
36 the Local Government Commission. A public hearing may be held by
37 the Department of Environment and Natural Resources or the Local
38 Government Commission at any time on any application. Public
39 hearings may also be held by the Department of Environment and
40 Natural Resources in its discretion upon written request from any citizen
41 or taxpayer who is a resident of the county or counties in which the
42 project is to be located or a resident of the local government unit that
43 proposes to borrow moneys under this act, if it appears that the public

1 interest will be served by the hearing. The written request shall set forth
2 each objection to the proposed project or other reason for requesting a
3 hearing on the application and shall contain the names and addresses of
4 the persons submitting it. In deciding whether to grant a request for a
5 hearing on an application, the Department of Environment and Natural
6 Resources may consider the application, the written objections to the
7 proposed project, and the facility needs and shall determine if the public
8 interest will be served by a hearing. The determination by the
9 Department of Environment and Natural Resources shall be conclusive,
10 and all written requests for a hearing shall be retained as a permanent
11 part of the records pertaining to the application.

12 (4) Petition for Vote. A petition, demanding that the question of whether to
13 enter into a loan agreement with the State under this act be submitted to
14 voters, may be filed with the clerk of the local government unit applying
15 for the loan within 15 days after the public hearing required by this
16 section. The petition's sufficiency shall be determined and a
17 referendum, if any, shall be conducted according to the standards,
18 procedures, and limitations set out in G.S. 159-60 through G.S. 159-62.

19 (d) Priorities.

20 (1) Determination. Determination of priorities to be assigned each eligible
21 project shall be made semiannually by the Department of Environment
22 and Natural Resources during each fiscal year. Every eligible project
23 shall be considered by the Department of Environment and Natural
24 Resources with every other project eligible during this same priority
25 period.

26 (2) Priority Factors. All applications for loans under this act shall be
27 assigned a priority by the Department of Environment and Natural
28 Resources. The Department of Environment and Natural Resources
29 shall establish other priority factors criteria by rule.

30 (3) Assignment of Priority. A written statement relative to each priority
31 assigned shall be prepared by the Department of Environment and
32 Natural Resources and shall be attached to the application. The priority
33 assigned shall be conclusive.

34 (4) Failure to Qualify. If an application does not qualify for a loan as of the
35 prior period in which the application was eligible for consideration by
36 reason of the priority assigned, the application shall be considered
37 during the next succeeding priority period upon request of the applicant.
38 If the application again fails to qualify for a loan during the second
39 priority period by reason of the priority assigned, the application shall
40 receive no further consideration. An applicant may file a new
41 application at any time and may amend any pending application to
42 include additional data or information.

1 (5) Withdrawal of Commitment. Failure of an applicant within one year
2 after the date of acceptance of the loan to arrange for necessary
3 financing of the proposed project or award of the contract of the
4 construction of the proposed project shall constitute sufficient cause for
5 withdrawal of the commitment. Prior to withdrawal of a commitment,
6 the Department of Environment and Natural Resources shall give due
7 consideration to any extenuating circumstances presented by the
8 applicant as reasons for failure to arrange necessary financing or to
9 award a contract, and the commitment may be extended for an
10 additional period of time if, in the judgment of the Department of
11 Environment and Natural Resources, the extension is justified.

12 (e) Disbursement. To be eligible to receive the loans provided for in this
13 section, a local government unit must arrange to borrow the amounts necessary pursuant
14 to rules adopted by the Local Government Commission. No funds shall be disbursed
15 until the Department of Environment and Natural Resources gives a certificate of
16 eligibility to the effect that the applicant meets all eligibility criteria and that all
17 procedural requirements of this act have been met. The maximum principal amount of a
18 loan shall be one hundred percent (100%) of the cost of any eligible project.

19 (f) Intercept. The governing body of a local government unit shall by
20 resolution authorize to be included in its loan agreement a provision authorizing the State
21 Treasurer, upon failure of the local government unit to make a scheduled repayment of
22 the loan, to withhold from the local government unit any State funds that would
23 otherwise be distributed to the local government unit in an amount sufficient to pay all
24 sums then due and payable to the State as a repayment of the loan. In such event,
25 notwithstanding any other provision of law, the State Treasurer is authorized to withhold
26 and apply such funds to the repayment of the loan, except that such funds shall not be
27 withheld if (i) before the execution of the loan agreement, such funds have been legally
28 pledged to secure special obligation bonds or other obligations of the local government
29 unit, or (ii) after the execution of the loan agreement, such funds are legally pledged to
30 secure special obligation bonds or other obligations of the local government unit as
31 authorized in this subsection. After the execution of a loan agreement, all or any portion
32 of the State funds specified in the loan agreement to be so withheld may be pledged to
33 secure special obligation bonds or other obligations of the local government unit only
34 with the prior written consent of the State Treasurer.

35 The State Treasurer shall notify the Secretary of Revenue and the State
36 Controller of the amount to be withheld from the local government unit, and the
37 Secretary of Revenue and the State Controller shall transfer to the State Treasurer the
38 amount so requested to be applied by the State Treasurer to the repayment of the loan.

39 (g) Inspection. Inspection of a project for which a loan has been made under
40 this act may be performed by qualified personnel of the Department of Environment and
41 Natural Resources or may be performed by qualified engineers registered in this State
42 approved by the Department of Environment and Natural Resources. No person shall be
43 approved to perform inspections who is an officer employed by the local government unit

1 to which the loan was made or who is an owner, officer, employer, or agent of a
2 contractor or subcontractor engaged in the construction of the project for which the loan
3 was made. For the purpose of payment of inspection fees, inspection services shall be
4 included in the term "cost" as used in this act.

5 (h) Rules. The State Treasurer, the Local Government Commission, and the
6 Department of Environment and Natural Resources may adopt, modify, and repeal rules
7 necessary for the administration of their respective duties under this act. Uniform rules
8 may be jointly adopted where feasible and desirable, and no rule, jointly adopted, may be
9 modified or revoked except upon concurrence of all agencies involved.

10 (i) Federal Grants and Loans. In order to carry out the purposes of this act to
11 secure the greatest possible benefits to the citizens of this State of the funds appropriated,
12 the State Treasurer, the Local Government Commission, and the Department of
13 Environment and Natural Resources shall adopt rules and criteria, not inconsistent with
14 provisions of this act, as are necessary and appropriate to conform to regulations for
15 federal grants and loans for any of the purposes set forth in this act.

16 (j) Report by Department of Environment and Natural Resources. The
17 Department of Environment and Natural Resources shall prepare and file each year on or
18 before July 31 with the Joint Legislative Commission on Governmental Operations and
19 the Fiscal Research Division a report for the preceding fiscal year concerning the
20 allocation and making of loans authorized by this act. The report shall set forth for the
21 preceding fiscal year:

- 22 (1) Itemized and total allocations of loans authorized and unallocated funds
23 for the loan program as of the end of the preceding fiscal year;
- 24 (2) Identification of each loan agreement entered into by the State during
25 the preceding fiscal year and the total amount of loans authorized by
26 such loan agreements;
- 27 (3) The amount disbursed to each local government unit pursuant to such
28 loan agreements during the preceding fiscal year and the total amount of
29 such disbursements;
- 30 (4) The loan repayments made by each local government unit pursuant to
31 such loan agreements and the total amount of such loan repayments
32 during the preceding fiscal year; and
- 33 (5) A summary for the five preceding years of the information required by
34 subdivisions (1) through (4) of this subsection.

35 The report shall be signed by the Secretary of Environment and Natural Resources.

36 (k) Local Government Commission.

37 (1) Local government units may execute debt instruments payable to the
38 State in order to obtain loans provided for in this act. Local government
39 units shall pledge or agree to apply as security for such obligations:

- 40 a. Any available source of revenues of the local government unit,
41 including revenues from benefitted facilities or systems, provided
42 that (i) the local government unit has not otherwise pledged the
43 revenues as security for, or contractually agreed to apply the

1 revenues to, the payment of any other obligations of the local
2 government unit, (ii) the use of the revenues is not otherwise
3 restricted by law, or (iii) the revenues are not derived from the
4 exercise of the local government unit's taxing power; or

5 b. Their faith and credit; or

6 c. Any combination of a. or b. above.

7 The faith and credit of a local government unit shall not be pledged or
8 be deemed to have been pledged unless the requirements of Article 4 of
9 Chapter 159 of the General Statutes have been met. The State
10 Treasurer, with the assistance of the Local Government Commission,
11 shall develop and adopt appropriate debt instruments for use under this
12 act.

13 (2) Nothing contained in this act shall prohibit any local government unit
14 from applying any funds of the local government unit not otherwise
15 restricted as to use by law to the payment of any debt instrument
16 payable to the State incurred pursuant to the provisions of this act.

17 (3) The Local Government Commission shall review and approve proposed
18 loans to local government units under this act under the provisions of
19 Articles 4 and 5 of Chapter 159 of the General Statutes. The Local
20 Government Commission in considering the ability of a local
21 government unit to repay a loan may regard as a source of revenue for
22 repayment of a loan revenue sources that may not be available other
23 than on an annual discretionary basis and that may not be subject to a
24 pledge or agreement to apply. Loans under this act shall be outstanding
25 debts for the purposes of Article 10 of Chapter 159 of the General
26 Statutes.

27 (4) The State Treasurer shall annually certify to the General Assembly the
28 financial condition of the loan program and identify existing
29 delinquencies.

30 Section 11. Reports. (a) The Rural Economic Development Center shall
31 prepare and file each year on or before July 31 with the Joint Legislative Commission on
32 Governmental Operations and the Fiscal Research Division a report for the preceding
33 fiscal year concerning the allocation and making of grants authorized by this act. The
34 report shall set forth for the preceding fiscal year:

35 (1) Itemized and total allocations of grants authorized and unallocated funds
36 for the grant program as of the end of the preceding fiscal year;

37 (2) Identification of each grant agreement entered into by the Rural
38 Economic Development Center during the preceding fiscal year and the
39 total amount of grants authorized by such grant agreements;

40 (3) The amount disbursed to each local government unit pursuant to such
41 grant agreements during the preceding fiscal year and the total amount
42 of such disbursements; and

1 (4) A summary for the five preceding years of the information required by
2 subdivisions (1) through (3) of this subsection.

3 The report shall be signed by the Chair of the Board of Directors of the Rural Economic
4 Development Center.

5 (b) The Department of Environment and Natural Resources shall prepare and file
6 each year on or before July 31 with the Joint Legislative Commission on Governmental
7 Operations and the Fiscal Research Division a report for the preceding fiscal year
8 concerning the allocation and making of grants authorized by this act. The report shall
9 set forth for the preceding fiscal year:

10 (1) Itemized and total allocations of grants authorized and unallocated funds
11 for the grant program as of the end of the preceding fiscal year;

12 (2) Identification of each grant agreement entered into by the Department of
13 Environment and Natural Resources during the preceding fiscal year
14 and the total amount of grants authorized by such grant agreements;

15 (3) The amount disbursed to each local government unit pursuant to such
16 grant agreements during the preceding fiscal year and the total amount
17 of such disbursements; and

18 (4) A summary for the five preceding years of the information required by
19 subdivisions (1) through (3) of this subsection.

20 The report shall be signed by the Secretary of Environment and Natural Resources.

21 (c) The Department of Commerce shall prepare and file each year on or before
22 July 31 with the Joint Legislative Commission on Governmental Operations and the
23 Fiscal Research Division a report for the preceding fiscal year concerning the allocation
24 and making of grants authorized by this act. The report shall be signed by the Secretary
25 of Commerce. The report shall set forth for the preceding fiscal year:

26 (1) Itemized and total allocations of grants authorized and unallocated funds
27 for the grant program as of the end of the preceding fiscal year;

28 (2) Identification of each grant agreement entered into by the Department of
29 Commerce during the preceding fiscal year and the total amount of
30 grants authorized by the grant agreements;

31 (3) The amount disbursed to each local government unit pursuant to the
32 grant agreements during the preceding fiscal year and the total amount
33 of the disbursements; and

34 (4) A summary for the five preceding years of the information required by
35 subdivisions (1) through (3) of this subsection.

36 Section 12. Minority business participation. The goals set by G.S. 143-128 for
37 participation in projects by minority businesses apply to projects funded by the proceeds
38 of bonds or notes issued under this act. The Department of Environment and Natural
39 Resources, the Department of Commerce, and the Rural Economic Development Center
40 shall monitor compliance with this requirement and shall report to the General Assembly
41 by January 1 of each year on the participation by minority businesses in these projects.

42 Section 13. Interpretation of act. (a) Additional Method. The foregoing sections of
43 this act shall be deemed to provide an additional and alternative method for the doing of

1 the things authorized thereby and shall be regarded as supplemental and additional to
2 powers conferred by other laws, and shall not be regarded as in derogation of any powers
3 now existing.

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

7 (c) Broad Construction. This act, being necessary for the health and welfare of the
8 people of the State, shall be broadly construed to effect the purposes thereof.

9 (d) Inconsistent Provisions. Insofar as the provisions of this act are inconsistent
10 with the provisions of any general laws, or parts thereof, the provisions of this act shall be
11 controlling.

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

16 Section 14. Chapter 143 of the General Statutes is amended by adding a new
17 Article to read:

18 **"ARTICLE 72.**

19 **"STATE INFRASTRUCTURE COUNCIL.**

20 **"§ 143-690. Council established; purpose; members; terms of office; quorum;
21 compensation; termination.**

22 (a) Establishment. – There is established the State Infrastructure Council. The
23 Council shall be located within the Department of Environment and Natural Resources
24 for organizational, budgetary, and administrative purposes.

25 (b) Purpose. – The purpose of the Council is to develop a State strategic plan that
26 addresses North Carolina's water supply and distribution and wastewater treatment needs.

27 (c) Membership. – The Council shall consist of 17 members, five of whom are ex
28 officio and 12 of whom are appointed as follows:

29 (1) Four persons appointed by the Governor.

30 (2) Four persons appointed by the President Pro Tempore of the Senate.

31 (3) Four persons appointed by the Speaker of the House of Representatives.

32 (4) The following persons or their designees, ex officio:

33 a. The Secretary of Commerce.

34 b. The Secretary of Environment and Natural Resources.

35 c. The State Treasurer.

36 d. The Executive Director of the League of Municipalities.

37 e. The Executive Director of the North Carolina Association of
38 County Commissioners.

39 The members appointed to the State Infrastructure Council shall be chosen from
40 among individuals who have the ability and commitment to promote and fulfill the
41 purposes of the Council, including individuals who have demonstrated expertise in the
42 fields of environmental science, particularly the areas of wastewater treatment and water

1 supply and distribution, public planning, public financing, public health, and economic
2 development.

3 (d) Terms. – Members shall serve for two-year terms, with no prohibition against
4 being reappointed, except initial appointments shall be for terms as follows:

5 (1) The Governor shall initially appoint two members for a term of two
6 years and two members for a term of three years.

7 (2) The President Pro Tempore of the Senate shall initially appoint two
8 members for a term of two years and two members for a term of three
9 years.

10 (3) The Speaker of the House of Representatives shall initially appoint two
11 members for a term of two years and two members for a term of three
12 years.

13 Initial terms shall begin on July 1, 1998.

14 (e) Chair. – The chair shall be appointed biennially by the Governor from among
15 the membership of the Council. The initial term shall begin on July 1, 1998.

16 (f) Vacancies. – A vacancy in the Council or as chair of the Council resulting
17 from the resignation of a member or otherwise shall be filled in the same manner in
18 which the original appointment was made and the term shall be for the balance of the
19 unexpired term.

20 (g) Compensation. – The Council members shall receive no salary as a result of
21 servicing on the Council but shall receive per diem, subsistence, and travel expenses in
22 accordance with the provisions of G.S. 120-3.1, 138-5, and 138-6, as applicable.

23 (h) Removal. – Members may be removed in accordance with G.S. 143B-13 as if
24 that section applied to this Article.

25 (i) Meetings. – The chair shall convene the Council. Meetings shall be held as
26 often as necessary, but not less than four times a year.

27 (j) Quorum. – A majority of the members of the Council shall constitute a quorum
28 for the transaction of business. The affirmative vote of a majority of the members present
29 at meetings of the Council shall be necessary for action to be taken by the Council.

30 **"§ 143-691. Duties of the Council.**

31 (a) Duties. – The Council shall have the following duties:

32 (1) To plan and develop a State strategic plan that addresses North
33 Carolina's water supply and distribution and wastewater treatment
34 needs.

35 (2) To evaluate the State's natural resource base and existing water and
36 sewer systems and to project statewide future needs for water and sewer
37 systems.

38 (3) To analyze current and proposed statutes, rules, and programs that
39 address or affect State water and sewer needs.

40 (4) To analyze the roles of State and local government and other parties in
41 addressing water and sewer needs and to recommend the appropriate
42 roles for each with regard to addressing future water and sewer needs.

43 **"§ 143-692. Staff and offices.**

1 The Department of Environment and Natural Resources shall provide office space and
2 staff for the State Infrastructure Council as requested by the Council.

3 **"§ 143-693. Council reports.**

4 The Council shall report to the Joint Legislative Commission on Governmental
5 Operations, with a written report to the Fiscal Research Division, by October 1, 1998, and
6 annually thereafter, regarding the implementation of this Article. In its report the Council
7 shall include any recommendations regarding statewide water and sewer needs that
8 require review or action by the General Assembly."

9 Section 15. G.S. 159G-6 reads as rewritten:

10 **"§ 159G-6. Distribution of funds.**

11 (a) Revolving loans and grants.

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

18 (2) The maximum principal amount of a revolving loan or a grant may be
19 one hundred percent (100%) of the nonfederal share of the construction
20 costs of any eligible project. The maximum principal amount of
21 revolving loans made to any one local government unit during any fiscal
22 year shall be ~~three ten million dollars (\$3,000,000).~~ (\$10,000,000). The
23 maximum principal amount of grants made to any one local government
24 unit during any fiscal year shall be ~~one three million dollars (\$1,000,000).~~
25 (\$3,000,000).

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

37 (b) Wastewater Accounts. – The sums allocated in G.S. 159G-4 and accruing to
38 the various Wastewater Accounts in each fiscal year shall be used to make revolving
39 loans and grants to local government units as provided below. The Department of
40 Environment and Natural Resources shall disburse no funds from the Wastewater
41 Accounts except upon receipt of written approval of the disbursement from the
42 Environmental Management Commission.

- 1 (1) General Wastewater Revolving Loan and Grant Account. – The funds in
2 the General Wastewater Revolving Loan and Grant Account shall be
3 used exclusively for the purpose of providing for revolving construction
4 loans or grants in connection with approved wastewater treatment work
5 or wastewater collection system projects.
- 6 (2) High-Unit Cost Wastewater Account. – The funds in the High-Unit Cost
7 Wastewater Account shall be available for grants to applicants for high-
8 unit cost wastewater projects. Eligibility of an applicant for such a grant
9 shall be determined by comparing estimated average household user
10 fees for water and sewer service, for debt service and operation and
11 maintenance costs, to one and one-half percent (1.5%) of the median
12 household income in the ~~county~~ local government unit in which the
13 project is located. The projects which would require estimated average
14 household water and sewer user fees greater than one and one-half
15 percent (1.5%) of the median household income are defined as high-unit
16 cost wastewater projects and will be eligible for a grant equal to the
17 excess cost, subject to the limitations in ~~subsection~~ subdivision (a)(2) of
18 this section.
- 19 (3) Emergency Wastewater Revolving Loan Account. – The funds in the
20 Emergency Wastewater Revolving Loan Account shall be available for
21 revolving emergency loans to applicants in the event the Environmental
22 Management Commission certifies that a serious public health hazard,
23 related to the inadequacy of existing wastewater facilities, is present or
24 imminent in a community.
- 25 (c) Water Supply Accounts. – The sums allocated in G.S. 159G-4 and accruing to
26 the various Water Supply Accounts in each fiscal year shall be used to provide revolving
27 loans and grants to local government units as provided below. The Department of
28 Environment and Natural Resources shall disburse no funds from the Water Supply
29 Accounts except upon receipt of written approval of the disbursement from the Division
30 of Environmental Health.
- 31 (1) General Water Supply Revolving Loan and Grant Account. – The funds
32 in the General Water Supply Revolving Loan and Grant Account shall
33 be used exclusively for the purpose of providing for revolving
34 construction loans and grants in connection with water supply systems
35 generally and not upon a county allotment basis.
- 36 (2) High-Unit Cost Water Supply Account. – The funds in the High-Unit
37 Cost Water Supply Account shall be available for grants to applicants
38 for high-unit cost water supply systems, on the same basis as provided
39 in G.S. 159G-6(b)(2) for high-unit cost wastewater projects.
- 40 (3) Emergency Water Supply Revolving Loan Account. – The funds in the
41 Emergency Water Supply Revolving Loan Account shall be available
42 for revolving emergency loans to applicants in the event the Division of
43 Environmental Health certifies that a serious public health hazard,

1 related to the water supply system, is present or imminent in a
2 community.

3 (d) Repealed by Session Laws 1991, c. 186, s. 4.

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

8 Section 16. The General Assembly finds that:

- 9 (1) The General Assembly has previously found that it is the policy of this
10 State to facilitate the extension of natural gas facilities to unserved areas
11 of the State; and
- 12 (2) The extension of natural gas facilities to unserved areas of the State is
13 necessary for the health of the people and of the environment; and
- 14 (3) The extension of natural gas facilities to unserved areas of the State will
15 aid and encourage the location of manufacturing enterprises and
16 industrial facilities in those areas of the State, will encourage new
17 construction, homes, and other businesses in those areas of the State,
18 will increase the population, taxable property, agricultural industries and
19 business prospects in the State; and
- 20 (4) The 1989 General Assembly in Chapter 338 of the 1989 Session Laws
21 directed the North Carolina Utilities Commission to require the
22 franchised natural gas local distribution companies to file reports with
23 the Commission detailing their plans for providing natural gas service in
24 areas of the State where natural gas service is not available, and directed
25 the Commission and the Public Staff to provide independent analyses
26 and summaries of those reports together with status reports of natural
27 gas service in the State to the Joint Legislative Utility Review
28 Committee; and
- 29 (5) The reports of the utilities, the Commission, and the Public Staff
30 indicate that the construction of facilities and the extension of natural
31 gas service in some areas of the State may not be economically feasible
32 with traditional funding methods; and
- 33 (6) The 1991 General Assembly enacted G.S. 62-158 and G.S. 62-2(9)
34 authorizing special funding methods, including the use of supplier
35 refunds and customer surcharges, to facilitate the expansion of natural
36 gas service; and
- 37 (7) While the 1991 legislation has been successful in providing some
38 natural gas service to previously unserved areas of the State, that
39 legislation has not been sufficient to facilitate the extension of service
40 that is necessary and in the public interest and there are still counties
41 with no gas service or virtually no gas service; and
- 42 (8) It is therefore necessary to authorize additional funding methods,
43 including appropriations from the General Assembly and the proceeds

1 of general obligation bonds, to further facilitate the expansion of natural
2 gas service.

3 Section 17. Chapter 62 of the General Statutes is amended by adding a new
4 section to read:

5 **"§ 62-159. Additional funding for natural gas expansion.**

6 (a) In order to facilitate the construction of facilities in and the extension of natural
7 gas service to unserved areas, the Commission may provide funding through
8 appropriations from the General Assembly or the proceeds of general obligation bonds as
9 provided in this section to either (i) an existing natural gas local distribution company or
10 (ii) a person awarded a new franchise, (iii) or a gas district for the construction of natural
11 gas facilities that it otherwise would not be economically feasible for the company,
12 person, or gas district to construct.

13 (b) The use of funds provided under this section shall be pursuant to an order of
14 the Commission after a public hearing. The Commission shall ensure that all projects for
15 which funds are provided under this section are consistent with the intent of this section
16 and G.S. 62-2(9). In determining whether to approve the use of funds for a particular
17 project pursuant to this section, the Commission shall consider the scope of a proposed
18 project, including the number of unserved counties and the number of anticipated
19 customers that would be served, the total cost of the project, the extent to which the
20 project is considered feasible, and other relevant factors affecting the public interest. In
21 determining economic feasibility, the Commission shall employ the net present value
22 method of analysis on a project specific basis. Only those projects with a negative net
23 present value shall be determined to be economically infeasible for the company, person,
24 or gas district to construct. In no event shall the Commission provide funding under this
25 section of an amount greater than the negative net present value of any proposed project
26 as determined by the Commission. If at any time a project is determined by the
27 Commission to have become economically feasible, the Commission may require the
28 recipient of funding to remit to the Commission appropriate funds related to the project,
29 and the Commission may order those funds to be returned with interest in a reasonable
30 amount to be determined by the Commission. Funds returned, together with interest,
31 shall be deposited in a special account with the State Treasurer to be used for other
32 expansion projects pursuant to the provisions of this section. Utility plant acquired with
33 expansion funds shall be included in a local distribution company's rate base at zero cost
34 except to the extent such funds have been remitted by the company pursuant to order of
35 the Commission. In the event a gas district wishes to sell or otherwise dispose of
36 facilities financed with funds received under this section, it must first notify the
37 Commission which shall determine the method of repayment or accounting for those
38 funds.

39 (c) To the extent that one or more of the counties included in a proposed
40 project to be funded pursuant to this section are counties affected by the loss of exclusive
41 franchise rights provided for in G.S. 62-36A(b), the Commission may conclude that the
42 public interest requires that the person obtaining the franchise or funding pursuant to this
43 section be given an exclusive franchise and that the existing franchise be canceled. Any

1 new exclusive franchise granted under this subsection shall be subject to the provisions of
2 G.S. 62-36A(b). This subsection does not apply to gas districts formed under Article 28
3 of Chapter 160A of the General Statutes.

4 (d) The Commission, after hearing, shall adopt rules to implement this section as
5 soon as practicable. The Commission and Public Staff shall report to the Joint
6 Legislative Utility Review Committee on the use of funding provided under this section
7 in conjunction with the reports required under G.S. 62-36A."

8 Section 18. G.S. 62-2 reads as rewritten:

9 "**§ 62-2. Declaration of policy.**

10 (a) Upon investigation, it has been determined that the rates, services and
11 operations of public utilities as defined herein, are affected with the public interest and
12 that the availability of an adequate and reliable supply of electric power and natural gas
13 to the people, economy and government of North Carolina is a matter of public policy. It
14 is hereby declared to be the policy of the State of North Carolina:

- 15 (1) To provide fair regulation of public utilities in the interest of the public;
16 (2) To promote the inherent advantage of regulated public utilities;
17 (3) To promote adequate, reliable and economical utility service to all of
18 the citizens and residents of the State;
19 (3a) To assure that resources necessary to meet future growth through the
20 provision of adequate, reliable utility service include use of the entire
21 spectrum of demand-side options, including but not limited to
22 conservation, load management and efficiency programs, as additional
23 sources of energy supply and/or energy demand reductions. To that end,
24 to require energy planning and fixing of rates in a manner to result in
25 the least cost mix of generation and demand-reduction measures which
26 is achievable, including consideration of appropriate rewards to utilities
27 for efficiency and conservation which decrease utility bills;
28 (4) To provide just and reasonable rates and charges for public utility
29 services without unjust discrimination, undue preferences or advantages,
30 or unfair or destructive competitive practices and consistent with long-
31 term management and conservation of energy resources by avoiding
32 wasteful, uneconomic and inefficient uses of energy;
33 (4a) To assure that facilities necessary to meet future growth can be financed
34 by the utilities operating in this State on terms which are reasonable and
35 fair to both the customers and existing investors of such utilities; and to
36 that end to authorize fixing of rates in such a manner as to result in
37 lower costs of new facilities and lower rates over the operating lives of
38 such new facilities by making provisions in the rate-making process for
39 the investment of public utilities in plants under construction;
40 (5) To encourage and promote harmony between public utilities, their users
41 and the environment;
42 (6) To foster the continued service of public utilities on a well-planned and
43 coordinated basis that is consistent with the level of energy needed for

1 the protection of public health and safety and for the promotion of the
2 general welfare as expressed in the State energy policy;

3 (7) To seek to adjust the rate of growth of regulated energy supply facilities
4 serving the State to the policy requirements of statewide development;

5 (8) To cooperate with other states and with the federal government in
6 promoting and coordinating interstate and intrastate public utility
7 service and reliability of public utility energy supply; and

8 (9) To facilitate the construction of facilities in and the extension of natural
9 gas service to unserved areas in order to promote the public welfare
10 throughout the State and to that end to authorize the creation of an
11 expansion ~~fund~~ funds for ~~each~~ natural gas local distribution company
12 companies or gas districts to be administered under the supervision of
13 the North Carolina Utilities Commission.

14 (b) To these ends, therefore, authority shall be vested in the North Carolina
15 Utilities Commission to regulate public utilities generally, their rates, services and
16 operations, and their expansion in relation to long-term energy conservation and
17 management policies and statewide development requirements, and in the manner and in
18 accordance with the policies set forth in this Chapter. Nothing in this Chapter shall be
19 construed to imply any extension of Utilities Commission regulatory jurisdiction over
20 any industry or enterprise that is not subject to the regulatory jurisdiction of said
21 Commission.

22 Because of technological changes in the equipment and facilities now available and
23 needed to provide telephone and telecommunications services, changes in regulatory
24 policies by the federal government, and changes resulting from the court-ordered
25 divestiture of the American Telephone and Telegraph Company, competitive offerings of
26 certain types of telephone and telecommunications services may be in the public interest.
27 Consequently, authority shall be vested in the North Carolina Utilities Commission to
28 allow competitive offerings of local exchange, exchange access, and long distance
29 services by public utilities defined in G.S. 62-3(23)a.6. and certified in accordance with
30 the provisions of G.S. 62-110, and the Commission is further authorized after notice to
31 affected parties and hearing to deregulate or to exempt from regulation under any or all
32 provisions of this Chapter: (i) a service provided by any public utility as defined in G.S.
33 62-3(23)a.6. upon a finding that such service is competitive and that such deregulation or
34 exemption from regulation is in the public interest; or (ii) a public utility as defined in
35 G.S. 62-3(23)a.6., or a portion of the business of such public utility, upon a finding that
36 the service or business of such public utility is competitive and that such deregulation or
37 exemption from regulation is in the public interest.

38 The policy and authority stated in this section shall be applicable to common carriers
39 of passengers by motor vehicle and their regulation by the North Carolina Utilities
40 Commission only to the extent that they are consistent with the provisions of the Bus
41 Regulatory Reform Act of 1985.

42 The North Carolina Utilities Commission may develop regulatory policies to govern
43 the provision of telecommunications services to the public which promote efficiency,

1 technological innovation, economic growth, and permit telecommunications utilities a
2 reasonable opportunity to compete in an emerging competitive environment, giving due
3 regard to consumers, stockholders, and maintenance of reasonably affordable local
4 exchange service and long distance service."

5 Section 19. Effective date. Sections 14 and 15 of this act become effective
6 only if the voters approve the issuance of the Clean Water Bonds authorized by this act in
7 the election required by Section 7 of this act. The remaining sections of this act are
8 effective when the act becomes law, and the Utilities Commission shall begin
9 immediately the rule-making process mandated by G.S. 62-159(d), as enacted by Section
10 17 of this act.