

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2007

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SENATE BILL 1522*

Short Title: Land and Water Conservation Bond Act of 2007. (Public)

Sponsors: Senators Albertson; Allran, Apodaca, Atwater, Bingham, Boseman, Brown, Clodfelter, Cowell, Dalton, Dorsett, Goss, Graham, Hagan, Hartsell, Hoyle, Hunt, Jenkins, Jones, Kinnaird, Preston, Purcell, Queen, Rand, Snow, Stevens, Swindell, and Weinstein.

Referred to: Finance.

March 28, 2007

A BILL TO BE ENTITLED

1 AN ACT TO AUTHORIZE THE ISSUANCE OF GENERAL OBLIGATION BONDS
2 OF THE STATE, SUBJECT TO A VOTE OF THE QUALIFIED VOTERS OF
3 THE STATE, TO ADDRESS STATEWIDE NEEDS REGARDING LAND
4 CONSERVATION, WATER QUALITY PROTECTION, HISTORIC
5 PRESERVATION, AND JOB CREATION.

6 The General Assembly of North Carolina enacts:

7 **SECTION 1.** This act is entitled "The Land and Water Conservation Bond
8 Act of 2007."

9 **SECTION 2.** Authorization of bonds and notes. – Subject to a favorable
10 vote of a majority of the qualified voters of the State who vote on the question of
11 issuing Land and Water Conservation Bonds in the election called and held as provided
12 in this act, the State Treasurer is hereby authorized, by and with the consent of the
13 Council of State, to issue and sell, at one time or from time to time, general obligation
14 bonds of the State to be designated "State of North Carolina Land and Water
15 Conservation Bonds", with any additional designations as may be determined to
16 indicate the issuance of bonds from time to time, or notes of the State as provided in this
17 act, in an aggregate principal amount not exceeding one billion dollars (\$1,000,000,000)
18 for the purpose of providing funds, with any other available funds, for the purposes
19 authorized in this act. No more than an aggregate amount of two hundred million
20 dollars (\$200,000,000) of bonds may be issued under this act before July 1, 2008. No
21 more than an aggregate amount of four hundred million dollars (\$400,000,000) of bonds
22 may be issued under this act before July 1, 2009. No more than an aggregate amount of
23 six hundred million dollars (\$600,000,000) of bonds may be issued under this act before
24 July 1, 2010. No more than an aggregate amount of eight hundred million dollars
25 (\$800,000,000) of bonds may be issued under this act before July 1, 2011.
26

1 **SECTION 3.** Definitions. – As used in this act, unless the context otherwise
2 requires:

- 3 (1) "Bonds" means bonds issued under this act.
4 (2) "Credit facility" means an agreement entered into by the State
5 Treasurer on behalf of the State with a bank, savings and loan
6 association, or other banking institution, an insurance company,
7 reinsurance company, surety company, or other insurance institution, a
8 corporation, investment banking firm, or other investment institution,
9 or any financial institution or other similar provider of a credit facility,
10 which provider may be located within or without the United States of
11 America, such agreement providing for prompt payment of all or any
12 part of the principal or purchase price (whether at maturity,
13 presentment or tender for purchase, redemption, or acceleration),
14 redemption premium, if any, and interest on any bonds or notes
15 payable on demand or tender by the owner, in consideration of the
16 State agreeing to repay the provider of the credit facility in accordance
17 with the terms and provisions of such agreement.
18 (3) "Notes" means notes issued under this act.
19 (4) "Par formula" means any provision or formula adopted by the State to
20 provide for the adjustment, from time to time, of the interest rate or
21 rates borne by any bonds or notes, including:
22 a. A provision providing for such adjustment so that the purchase
23 price of such bonds or notes in the open market would be as
24 close to par as possible,
25 b. A provision providing for such adjustment based upon a
26 percentage or percentages of a prime rate or base rate, which
27 percentage or percentages may vary or be applied for different
28 periods of time, or
29 c. Such other provision as the State Treasurer may determine to be
30 consistent with this act and will not materially and adversely
31 affect the financial position of the State and the marketing of
32 bonds or notes at a reasonable interest cost to the State.
33 (5) "State" means the State of North Carolina.

34 **SECTION 4.** Use of bond proceeds. – The proceeds of the Land and Water
35 Conservation Bonds shall be used as provided in this section. The proceeds of Land and
36 Water Conservation Bonds shall be used as follows:

- 37 (1) Twenty-nine and forty-one one-hundredths percent (29.41%) of the
38 proceeds of each issuance of Land and Water Conservation Bonds
39 shall be used in the same manner as funds appropriated to the Natural
40 Heritage Trust Fund created pursuant to G.S. 113-77.7.
41 (2) Eighteen and fifty-nine one-hundredths percent (18.59%) of the
42 proceeds of each issuance of Land and Water Conservation Bonds
43 shall be used in the same manner as funds appropriated to the Clean
44 Water Management Trust Fund created pursuant to G.S. 113A-253.

- 1 (3) Sixteen and forty-seven one-hundredths percent (16.47%) of the
2 proceeds of each issuance of Land and Water Conservation Bonds
3 shall be used in the same manner as funds appropriated to the Parks
4 and Recreation Trust Fund created pursuant to G.S. 113-44.15.
- 5 (4) Twenty percent (20%) of the proceeds of each issuance of Land and
6 Water Conservation Bonds shall be used in the same manner as funds
7 appropriated to the North Carolina Agricultural Development and
8 Farmland Preservation Trust Fund created pursuant to G.S. 106-744.
- 9 (5) Fourteen and twelve one-hundredths percent (14.12%) of the proceeds
10 of each issuance of Land and Water Conservation Bonds shall be used
11 to fund the Landing Jobs Initiative created pursuant to
12 G.S. 143B-437.102.
- 13 (6) One and forty-one one-hundredths percent (1.41%) of the proceeds of
14 each issuance of Land and Water Conservation Bonds shall be used to
15 fund the One NC Naturally program administered by the Department
16 of Environment and Natural Resources, Office of Conservation and
17 Community Affairs.

18 **SECTION 5.** Natural Heritage Trust Fund. – (a) G.S. 113-77.8(a) reads as
19 rewritten:

20 "(a) Expenditures from the Fund shall be authorized by a 12-member Board of
21 Trustees. Four members shall be appointed by the Governor, four by the General
22 Assembly upon the recommendation of the President Pro Tempore of the Senate in
23 accordance with G.S. 120-121, and four by the General Assembly upon the
24 recommendation of the Speaker of the House of Representatives in accordance with
25 G.S. 120-121. Persons appointed shall be knowledgeable in the acquisition and
26 management of natural ~~areas~~areas or historic properties. Each appointing officer shall
27 designate one of his initial appointments to serve a two-year term, one to serve a
28 four-year term, and one to serve a six-year term. Thereafter, all appointments shall be
29 for six years, subject to reappointment. Appointments shall expire January 1 of
30 even-numbered years. The Governor shall appoint one Trustee to serve as Chairman of
31 the Board. The Secretary shall provide the Trustees with staff support and meeting
32 facilities using expenditures from the Fund. The office of Trustee is declared to be an
33 office that may be held concurrently with any other executive or appointive office,
34 under the authority of Article VI, Section 9, of the North Carolina Constitution."

35 **SECTION 5.(b)** G.S. 113-77.9 reads as rewritten:

36 "**§ 113-77.9. ~~Acquisition of lands~~Permissible grants with funds from the Natural**
37 **Heritage Trust Fund.**

38 (a) Proposals. – From time to time, but at least once each year, the Secretary, the
39 Chairman of the North Carolina Wildlife Resources Commission, the Commissioner of
40 Agriculture, and the Secretary of Cultural Resources may propose to the Trustees lands
41 to be acquired with funds from the Fund. For each tract or interest proposed, the
42 Secretary, the Chairman of the North Carolina Wildlife Resources Commission, the
43 Commissioner of Agriculture, and the Secretary of Cultural Resources shall provide the
44 Trustees with the following information:

- 1 (1) The value of the land and historic structures for recreation, forestry,
2 fish and wildlife habitat, and wilderness purposes, and its consistency
3 with ~~the planplans~~ developed pursuant to the State Parks Act, the
4 State's comprehensive plan for outdoor recreation, parks, natural areas
5 development, and wildlife management goals and
6 ~~objectives-objectives~~, or with the historic preservation priorities and
7 objectives developed by the Department of Cultural Resources.
- 8 (2) Any rare or endangered species on or near the land.
- 9 (3) Whether the land contains a relatively undisturbed and outstanding
10 example of a native North Carolina ecological community that is now
11 uncommon.
- 12 (4) Whether the land contains a major river or tributary, watershed,
13 wetland, significant littoral, estuarine, or aquatic site, or important
14 geologic feature.
- 15 (5) The extent to which the land represents a type of landscape, natural
16 feature, or natural area that is not currently in the State's inventory of
17 parks and natural areas.
- 18 (5a) Whether the land is visible from a State or nationally designated scenic
19 highway.
- 20 (5b) The historical and cultural significance of any structures or
21 archeological sites on the land.
- 22 (6) Other sources of funds that may be available to assist in acquiring the
23 land.
- 24 (7) The State department or division that will be responsible for managing
25 the ~~land~~ land or holding the easement.
- 26 (8) What assurances exist that the land or historic structure will not be
27 used for purposes other than those for which it is being
28 ~~acquired-acquired or improved.~~
- 29 (9) ~~Whether the site or structure is of such historical significance as to be~~
30 ~~essential to the development of a balanced State program of historie~~
31 ~~properties.~~
- 32 (b) Land Acquisition and Debt Service. – The Trustees may authorize
33 expenditures from the Fund for the following purposes:
- 34 (1) To acquire land that represents the ecological diversity of North
35 Carolina, including natural features such as riverine, montane, coastal,
36 and geologic systems and other natural areas to ensure their
37 preservation and conservation for recreational, scientific, educational,
38 cultural, and aesthetic purposes, and to retire debt incurred for this
39 purpose under Article 9 of Chapter 142 of the General Statutes.
- 40 (2) To acquire land as additions to the system of parks, State trails,
41 aesthetic forests, fish and wildlife management areas, wild and scenic
42 rivers, and natural areas for the beneficial use and enjoyment of the
43 public, and to retire debt incurred for this purpose under Article 9 of
44 Chapter 142 of the General Statutes.

1 (3) Subject to the limitations of subsection (b2) of this section, to acquire
2 land ~~that contributes~~ and structures that contribute to the development
3 of a balanced State program of historic properties.

4 (b1) Priorities. – In authorizing expenditures from the Fund to acquire land and
5 structures pursuant to this Article, the first priority shall be the protection of land and
6 structures with outstanding natural or cultural heritage values. Land with outstanding
7 natural heritage values is land that is identified by the North Carolina Natural Heritage
8 Program as having State or national significance. ~~Land~~ Land, structures, and sites with
9 outstanding cultural heritage values ~~is land that are~~ those that are listed on the National
10 Register of Historic Places or have been formally determined to be eligible for listing on
11 the National Register of Historic Places, and have been ~~is~~ identified, inventoried, ~~or~~ and
12 evaluated by the Department of Cultural Resources. The Trustees shall be guided by any
13 priorities established by the Secretary, the Chairman of the Wildlife Resources
14 Commission, the Commissioner of Agriculture, and the Secretary of Cultural Resources
15 in their proposals made pursuant to subsection (a) of this section.

16 (b2) Historic Properties. – The Trustees may authorize expenditure of up to
17 twenty-five percent (25%) of the funds credited to the Fund pursuant to G.S. 105-228.30
18 during the preceding fiscal year to acquire land and structures under subdivision (3) of
19 subsection (b) of this section ~~section~~ or to restore, rehabilitate, or repair historic
20 structures under subdivision (3) of subsection (c) of this section. No other funds in the
21 Fund may be used for expenditures to acquire land under subdivision (3) of subsection
22 (b) or subdivision (3) of subsection (c) of this section.

23 (b3) Debt. – Of the funds credited annually to the Fund pursuant to
24 G.S. 105-228.30, the Trustees may authorize expenditure of up to fifty percent (50%) to
25 reimburse the General Fund for debt service on special indebtedness to be issued or
26 incurred under Article 9 of Chapter 142 of the General Statutes for the purposes
27 provided in subdivisions (b)(1) and (2) of this section. In order to authorize expenditure
28 of funds for debt service reimbursement, the Trustees must identify to the State
29 Treasurer and the Department of Administration the specific natural heritage projects
30 for which they would like special indebtedness to be issued or incurred and the annual
31 amount they intend to make available, and request the State Treasurer to issue or incur
32 the indebtedness. After special indebtedness has been issued or incurred for a natural
33 heritage project requested by the Trustees, the Trustees must direct the State Treasurer
34 to credit to the General Fund each year the actual aggregate principal and interest
35 payments to be made in that year on the special indebtedness, as identified by the State
36 Treasurer.

37 (c) Other Purposes. – The Trustees may also authorize expenditures from the
38 Fund ~~to~~ for the following purposes:

39 (1) To pay for the inventory of natural areas conducted under the Natural
40 Heritage Program established pursuant to the Nature Preserves Act,
41 Article 9A of Chapter 113A of the General Statutes.

42 (2) ~~The Trustees may also authorize expenditures from the Fund to~~ To pay
43 for conservation and protection planning and for informational
44 programs for owners of natural areas, as defined in G.S. 113A-164.3.

1 (3) To restore, rehabilitate, and repair historic structures routinely open to
2 the public in which the State shall hold or acquire a property interest
3 either in fee, easement, or reversionary interest in the site.

4 (4) To pay for the restoration or ecological management on land in natural
5 areas through activities such as prescribed burnings, removal of exotic
6 species, or similar efforts upon the recommendation of the Natural
7 Heritage Program established pursuant to Article 9A of Chapter 113A
8 of the General Statutes, provided that the State shall hold or acquire a
9 property interest in the land either in fee, easement, or reversionary
10 interest.

11 (d) Acquisition. – The Department of Administration may, pursuant to
12 G.S. 143-341, acquire by purchase, gift, or devise all lands and interest in lands selected
13 by the Trustees for acquisition pursuant to this Article. ~~Title to~~ The State shall hold a
14 property interest, either in fee or easement, in any land acquired pursuant to this Article
15 ~~shall be vested in the State.~~ Article. A State agency with management responsibility for
16 land acquired pursuant to this Article may enter into a management agreement or lease
17 with a county, city, town, or private nonprofit organization qualified under
18 G.S. 105-151.12 and G.S. 105-130.34 and certified under section 501(c)(3) of the
19 Internal Revenue Code to aid in managing the land. A management agreement or lease
20 shall be executed by the Department of Administration pursuant to G.S. 143-341.

21 (d1) Local Reimbursement. – In any county in which real property was purchased
22 pursuant to subsection (d) of this section as additions to the fish and wildlife
23 management areas and where less than twenty-five percent (25%) of the land area is
24 privately owned at the time of purchase, that county and any other local taxing unit shall
25 be annually reimbursed, for a period of 20 years, from funds available to the North
26 Carolina Wildlife Resources Commission in an amount equal to the amount of ad
27 valorem taxes that would have been paid to the taxing unit if the property had remained
28 subject to taxation.

29 (e) Reports. – The Secretary shall maintain and revise twice each year a list of
30 ~~acquisitions-grants~~ made pursuant to this Article. The list shall include the acreage of
31 each tract, the county in which the tract is located, the amount ~~paid-granted~~
32 Fund to acquire the tract, and the State department or division responsible for managing
33 the tract. The Secretary shall furnish a copy of the list to each Trustee, the Joint
34 Legislative Commission on Governmental Operations, the House and Senate
35 Appropriations Subcommittees on Natural and Economic Resources, the Fiscal
36 Research Division, and the Environmental Review Commission within 30 days after
37 each revision.

38 (f) Hunting and Fishing. – No provision of this Article shall be construed to
39 eliminate hunting and fishing, as regulated by the laws of the State of North Carolina,
40 upon properties purchased pursuant to this Article."

41 **SECTION 6. Reserved for future codification purposes.**

42 **SECTION 7. Landing Jobs Initiative.** – Article 10 of Chapter 143B of the
43 General Statutes is amended by adding a new Part to read:

44 "Part 2K. Landing Jobs Initiative.

"§ 143B-437.100. Legislative findings and purpose.

The General Assembly finds that:

- (1) It is the policy of the State of North Carolina to stimulate economic activity and to create new jobs for the citizens of the State by encouraging and promoting the expansion of existing business and industry within the State and by recruiting and attracting new business and industry to the State.
- (2) The State is blessed with an abundance of natural and cultural resources and has a rich historical heritage which could serve as the basis for building a thriving economic sector, and the State's economic development efforts to date have failed to fully utilize these resources and heritage.
- (3) The enactment of this Part is necessary to stimulate the economy, facilitate economic recovery, and create new jobs in North Carolina; and this Part will promote the general welfare and confer, as its primary purpose and effect, benefits on citizens throughout the State through the creation of new jobs, an enlargement of the overall tax base, an expansion and diversification of the State's commercial base, and an increase in revenue to the State and its political subdivisions.

"§ 143B-437.101. Definitions.

The following definitions apply in this Part:

- (1) Council. – The Landing Jobs Council created pursuant to G.S. 143B-437.103.
- (2) NCCDI. – The North Carolina Community Development Initiative, Inc.
- (3) Small business. – Defined in G.S. 105-129.50.

"§ 143B-437.102. Landing Jobs Initiative.

(a) Creation. – There is established the Landing Jobs Initiative to be administered by NCCDI in consultation with the Council. In order to foster job creation and economic development, NCCDI may make grants to local governments and nonprofit organizations as provided in this Part. The Landing Jobs Initiative shall be located administratively in the Department of Commerce but shall exercise its statutory powers and duties independently of the Department of Commerce.

(b) Purpose. – The purpose of the Initiative is to foster job creation and economic development while utilizing the State's natural, cultural, and historic resources. In awarding grants under this Part, NCCDI and the Council shall consider only those projects that promote one of the following goals:

- (1) Sustainable tourism development and related projects that attract a broad range of visitors and focus on natural, cultural, historic, or agricultural resources.
- (2) Agribusiness-related projects that promote family farms, sustainable aquaculture, value-added agricultural processing, or new markets for agricultural or aquacultural products.

- 1 (3) Sustainable forestry projects that support community ownership and
2 management of forestlands, sustainable harvests of timber, wood
3 products, and nonwood forest products such as mushrooms or pine
4 straw, and value-added processing of these products.
5 (4) Start-up, support, or expansion of entrepreneurial enterprises that
6 utilize the State's natural, cultural, and historic heritage.
7 (5) The rehabilitation and reuse of historic buildings and downtown areas
8 in ways which foster further economic development.
9 (6) The development of high-quality neighborhoods in low-wealth areas in
10 a manner that is consistent with sound environmental policies.

11 (c) Type of Assistance. – NCCDI, upon consultation with the Council, may make
12 grants under this Part to promote the purposes listed in subsection (b) of this section.
13 The following types of assistance are allowed under this Part:

- 14 (1) Planning grants. – NCCDI may award a planning grant to a local
15 government unit, nonprofit entity, or a group of local government
16 units, nonprofit entities, or both to develop community-based plans for
17 promotion of economic development projects that promote one or
18 more of the goals listed in subsection (b) of this section.
19 (2) Project implementation grants. – NCCDI may award a project
20 implementation grant to a local government unit or nonprofit entity to
21 assist these entities in implementing plans developed to promote one
22 or more of the economic development goals listed in subsection (b) of
23 this section.

24 **"§ 143B-437.103. Landing Jobs Council established.**

25 (a) Membership. – The Landing Jobs Council is established. The Council
26 consists of the following 11 members appointed by NCCDI:

- 27 (1) Two members selected from nominations received from the Governor.
28 (2) Two members selected from nominations received from the President
29 Pro Tempore of the Senate.
30 (3) Two members selected from nominations received from the Speaker of
31 the House of Representatives.
32 (4) Four members selected from nominations received from stakeholder
33 organizations representing low-wealth communities, historical
34 preservation interests, downtown revitalization interests,
35 entrepreneurs, or other related constituencies.
36 (5) One member selected by NCCDI who shall serve as chair of the
37 Council.

38 (b) Duties. – The Council shall review applications for grants and loans received
39 pursuant to G.S. 143B-437.104 and make funding recommendations to NCCDI. The
40 Council may act only upon a decision of a majority of its members.

41 (c) Sunshine. – Meetings of the Council are subject to the open meetings
42 requirements of Article 33C of Chapter 143 of the General Statutes. All documents of
43 the Council, including applications for grants, are public records governed by Chapter

1 132 of the General Statutes and any applicable provisions of the General Statutes
2 protecting confidential information.

3 **"§ 143B-437.104. Applications; report; study.**

4 (a) Application. – A local government unit or nonprofit entity, or a group of
5 these entities, shall apply, under oath, to the Council for a grant on a form prescribed by
6 the Council that includes at least all of the following:

7 (1) The location of the project.

8 (2) A description of the project including a statement of how the project
9 will help promote economic development through one or more of the
10 goals listed in G.S. 143B-437.102.

11 (3) Any other information necessary for the Committee to evaluate the
12 application.

13 (b) Report. – NCCDI, in consultation with the Council, shall publish a report on
14 the Landing Jobs Initiative on or before April 30 of each year. The report shall include
15 the following:

16 (1) A listing of each grant awarded during the preceding calendar year,
17 including the name of the entities receiving the grant, a description of
18 the project, and the amount of the grant.

19 (2) An update on the status of projects that received grants in the past.

20 (3) The effectiveness of the program in developing new businesses and
21 jobs.

22 (4) The environmental impact of projects that have received grants or
23 loans under the initiative.

24 (5) The geographic distribution of grants and loans, by number and
25 amount, awarded under the program.

26 (c) Study. – The Council shall conduct a study to determine the minimum
27 funding level required to implement the Landing Jobs Initiative successfully. The
28 Committee shall report the results of this study to the House of Representatives
29 Appropriations Subcommittee on Natural and Economic Resources, the Senate
30 Appropriations Committee on Natural and Economic Resources, and the Fiscal
31 Research Division no later than March 1 of each year."

32 **SECTION 8.** Clean Water Management Trust Fund. – G.S. 113A-256 is
33 amended by adding a new subsection to read:

34 "(k) Local Reimbursement. – In any county in a development tier one area, as
35 designated under G.S. 143B-437.08, in which real property was purchased pursuant to
36 this section, the Fund shall annually reimburse that county and any other local taxing
37 unit for a period of 10 years from funds available to the Fund in an amount equal to the
38 amount of ad valorem taxes that would have been paid to the taxing unit if the property
39 had remained subject to taxation."

40 **SECTION 9.** Allocation of proceeds. – The proceeds of Land and Water
41 Conservation Bonds and notes, including premium thereon, if any, except the proceeds
42 of bonds the issuance of which has been anticipated by bond anticipation notes or the
43 proceeds of refunding bonds or notes, shall be placed by the State Treasurer in a special
44 fund to be designated "Land and Water Conservation Bonds Fund", which may include

1 such appropriate special accounts therein as may be determined by the State Treasurer
2 and shall be disbursed as provided in this act. Moneys in the Land and Water
3 Conservation Bonds Fund shall be allocated and expended as provided in this act.

4 Any additional moneys which may be received by means of a grant or grants
5 from the United States of America or any agency or department thereof or from any
6 other source for deposit to the Land and Water Conservation Bonds Fund may be placed
7 in the Land and Water Conservation Bonds Fund or in a separate account or fund and
8 shall be disbursed, to the extent permitted by the terms of the grant or grants, without
9 regard to any limitations imposed by this act.

10 Moneys in the Land and Water Conservation Bonds Fund or any separate
11 fund or account established under this act may be invested from time to time by the
12 State Treasurer in the same manner permitted for investment of moneys belonging to
13 the State or held in the State treasury, except with respect to grant money to the extent
14 otherwise directed by the terms of the grant. Investment earnings, except investment
15 earnings with respect to grant moneys to the extent otherwise directed or restricted by
16 the terms of the grant, may be (i) credited to the Land and Water Conservation Bonds
17 Fund or any separate fund or account established under this act, (ii) used to pay debt
18 service on the bonds authorized by this act, (iii) used to satisfy compliance with
19 applicable requirements of the federal tax law, or (iv) transferred to the General Fund of
20 the State.

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

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

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

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

5 "[] FOR [] AGAINST

6 The North Carolina Land And Water Conservation Bonds

7 To protect drinking water sources, protect fish and wildlife habitat, preserve working
8 farms, restore historic landmarks, repair, improve, and expand State and local natural
9 areas, parks, and trails, and prevent polluted runoff from contaminating rivers, lakes,
10 and streams, the issuance of one billion dollars (\$1,000,000,000) State of North
11 Carolina Land and Water Conservation Bonds, constituting general obligation bonds of
12 the State secured by a pledge of the faith and credit and taxing power of the State for the
13 purpose of providing funds, with any other available funds, to pay all or a portion of the
14 cost of land acquisition and capital improvements, with all spending subject to an
15 annual public audit."

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

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

24 **SECTION 11.** Issuance of bonds and notes. (a) Terms and Conditions. –
25 Bonds or notes may bear such date or dates, may be serial or term bonds or notes, or any
26 combination thereof, may mature in such amounts and at such time or times, not
27 exceeding 40 years from their date or dates, may be payable at such place or places,
28 either within or without the United States of America, in such coin or currency of the
29 United States of America as at the time of payment is legal tender for payment of public
30 and private debts, may bear interest at such rate or rates, which may vary from time to
31 time, and may be made redeemable before maturity, at the option of the State or
32 otherwise as may be provided by the State, at such price or prices, including a price less
33 than or greater than the face amount of the bonds or notes, and under such terms and
34 conditions, all as may be determined by the State Treasurer, by and with the consent of
35 the Council of State.

36 **SECTION 11.(b)** Signatures; Form and Denomination; Registration. –
37 Bonds or notes may be issued in certificated or uncertificated form. If issued in
38 certificated form, bonds or notes shall be signed on behalf of the State by the Governor
39 or shall bear the Governor's facsimile signature, shall be signed by the State Treasurer
40 or shall bear the State Treasurer's facsimile signature, and shall bear the Great Seal of
41 the State, or a facsimile of the Seal shall be impressed or imprinted thereon. If bonds or
42 notes bear the facsimile signatures of the Governor and the State Treasurer, the bonds or
43 notes shall also bear a manual signature which may be that of a bond registrar, trustee,
44 paying agent, or designated assistant of the State Treasurer. Should any officer whose

1 signature or facsimile signature appears on bonds or notes cease to be such officer
2 before the delivery of the bonds or notes, the signature or facsimile signature shall
3 nevertheless have the same validity for all purposes as if the officer had remained in
4 office until delivery. Bonds or notes may bear the facsimile signatures of persons who
5 at the actual time of the execution of the bonds or notes shall be the proper officers to
6 sign any bond or note although at the date of the bond or note such persons may not
7 have been such officers. The form and denomination of bonds or notes, including the
8 provisions with respect to registration of the bonds or notes and any system for their
9 registration, shall be as the State Treasurer may determine in conformity with this act.

10 **SECTION 11.(c)** Manner of Sale; Expenses. – Subject to the approval by
11 the Council of State as to the manner in which bonds or notes shall be offered for sale,
12 whether at public or private sale, whether within or without the United States, and
13 whether by publishing notices in certain newspapers and financial journals, mailing
14 notices, inviting bids by correspondence, negotiating contracts of purchase or otherwise,
15 the State Treasurer is authorized to sell bonds or notes at one time or from time to time
16 at any rate or rates of interest, which may vary from time to time, and at any price or
17 prices, including a price less than or greater than the face amount of the bonds or the
18 notes, as the State Treasurer may determine. All expenses incurred in the preparation,
19 sale, and issuance of bonds or notes shall be paid by the State Treasurer from the
20 proceeds of bonds or notes or other available moneys.

21 **SECTION 11.(d)** Notes; Repayment.

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

- 26 a. For anticipating the sale of bonds the issuance of which the
27 Council of State has approved, if the State Treasurer considers
28 it advisable to postpone the issuance of the bonds;
- 29 b. For the payment of interest on or any installment of principal of
30 any bonds then outstanding, if there are not sufficient funds in
31 the State treasury with which to pay the interest or installment
32 of principal as they respectively become due;
- 33 c. For the renewal of any loan evidenced by notes herein
34 authorized;
- 35 d. For the purposes authorized in this act; and
- 36 e. For refunding bonds or notes as herein authorized.

37 (2) Funds derived from the sale of bonds or notes may be used in the
38 payment of any bond anticipation notes issued under this act. Funds
39 provided by the General Assembly for the payment of interest on or
40 principal of bonds shall be used in paying the interest on or principal
41 of any notes and any renewals thereof, the proceeds of which shall
42 have been used in paying interest on or principal of the bonds.

43 **SECTION 11.(e)** Refunding Bonds and Notes. – By and with the consent of
44 the Council of State, the State Treasurer is authorized to issue and sell refunding bonds

1 and notes for the purpose of refunding bonds or notes issued pursuant to this act and to
2 pay the cost of issuance of the refunding bonds or notes. The refunding bonds and notes
3 may be combined with any other issues of State bonds and notes similarly secured.
4 Refunding bonds or notes may be issued at any time prior to the final maturity of the
5 debt or obligation to be refunded. The proceeds from the sale of any refunding bonds or
6 notes shall be applied to the immediate payment and retirement of the bonds or notes
7 being refunded or, if not required for the immediate payment of the bonds or notes
8 being refunded, the proceeds shall be deposited in trust to provide for the payment and
9 retirement of the bonds or notes being refunded and to pay any expenses incurred in
10 connection with the refunding. Money in a trust fund may be invested in (i) direct
11 obligations of the United States government, (ii) obligations the principal of and interest
12 on which are guaranteed by the United States government, (iii) obligations of any
13 agency or instrumentality of the United States government if the timely payment of
14 principal and interest on the obligations is unconditionally guaranteed by the United
15 States government, or (iv) certificates of deposit issued by a bank or trust company
16 located in the State if the certificates are secured by a pledge of any of the obligations
17 described in (i), (ii), or (iii) above having an aggregate market value, exclusive of
18 accrued interest, equal at least to the principal amount of the certificates so secured.
19 This section does not limit the duration of any deposit in trust for the retirement of
20 bonds or notes being refunded but that have not matured and are not presently
21 redeemable, or if presently redeemable, have not been called for redemption.

22 **SECTION 11.(f) Tax Exemption.** – Bonds and notes shall at all times be
23 free from taxation by the State or any political subdivision or any of their agencies,
24 excepting estate, inheritance, or gift taxes, income taxes on the gain from the transfer of
25 the securities, and franchise taxes. The interest on the bonds and notes is not subject to
26 taxation as income.

27 **SECTION 11.(g) Investment Eligibility.** – Bonds and notes are securities in
28 which all of the following may invest, including capital in their control or belonging to
29 them: public officers, agencies, and public bodies of the State and its political
30 subdivisions, all insurance companies, trust companies, investment companies, banks,
31 savings banks, savings and loan associations, credit unions, pension or retirement funds,
32 other financial institutions engaged in business in the State, executors, administrators,
33 trustees, and other fiduciaries. Bonds and notes are hereby made securities which may
34 properly and legally be deposited with and received by any officer or agency of the
35 State or political subdivision of the State for any purpose for which the deposit of
36 bonds, notes, or obligations of the State or any political subdivision is now or may
37 hereafter be authorized by law.

38 **SECTION 11.(h) Faith and Credit.** – The faith and credit and taxing power
39 of the State are hereby pledged for the payment of the principal of and the interest on
40 bonds and notes. In addition to the State's right to amend any provision of this act to the
41 extent it does not impair any contractual right of a bond owner, the State expressly
42 reserves the right to amend any provision of this act with respect to the making and
43 repayment of loans, the disposition of any repayments of loans, and any intercept
44 provisions relating to the failure of a local government unit to repay a loan, the bonds

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

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

16 **SECTION 11.(j)** Other Agreements. – The State Treasurer may authorize,
17 execute, obtain, or otherwise provide for bond insurance, investment contracts, credit
18 and liquidity facilities, interest rate swap agreements and other derivative products, and
19 any other related instruments and matters the State Treasurer determines are desirable in
20 connection with the issuance of bonds or notes. The State Treasurer is authorized to
21 employ and designate any financial consultants, underwriters, and bond attorneys to be
22 associated with any bond issue under this act as the State Treasurer considers necessary.

23 **SECTION 12.** Variable rate demand bonds and notes. – In fixing the details
24 of bonds and notes, the State Treasurer may provide that any of the bonds or notes may:

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

43 If the aggregate principal amount payable by the State under a credit facility
44 is in excess of the aggregate principal amount of bonds or notes secured by the credit

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

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

12 **SECTION 13.(b)** Statutory References. – References in this act to specific
13 sections or Chapters of the General Statutes or to specific acts are intended to be
14 references to these sections, Chapters, or acts as they may be amended from time to
15 time by the General Assembly.

16 **SECTION 13.(c)** Broad Construction. – This act, being necessary for the
17 health and welfare of the people of the State, shall be broadly construed to effect the
18 purposes thereof.

19 **SECTION 13.(d)** Inconsistent Provisions. – Insofar as the provisions of this
20 act are inconsistent with the provisions of any general, special, or local laws, or parts
21 thereof, the provisions of this act shall be controlling.

22 **SECTION 13.(e)** Severability. – If any provision of this act or the
23 application thereof to any person or circumstance is held invalid, such invalidity shall
24 not affect other provisions or applications of the act which can be given effect without
25 the invalid provision or application, and to this end the provisions of this act are
26 declared to be severable.

27 **SECTION 14.** Sections 5(a), 8, and the revisions to G.S. 113-77.9(a)
28 through (c) become effective January 1, 2008, but only upon certification by the State
29 Board of Elections that a majority of those voting on the bond question in Section 10 of
30 this act voted in favor of the issuance of the bonds. The remainder of this act is
31 effective when it becomes law.