

**GENERAL ASSEMBLY OF NORTH CAROLINA**  
**SESSION 2007**

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**SENATE DRS35042-LYx-47 (1/26)**

Short Title: Clean Water Act of 2007.

(Public)

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Sponsors: Senators Dalton, and Kerr.

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Referred to:

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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 STATEWIDE CRITICAL INFRASTRUCTURE NEEDS BY PROVIDING FUNDS FOR GRANTS AND LOANS FOR WASTEWATER AND DRINKING WATER PROJECTS.

The General Assembly of North Carolina enacts:

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

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

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

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

- 4 (1) Fifty percent (50%) of the proceeds of each issuance of 2007 Clean  
5 Water Bonds shall be used in the same manner as funds appropriated  
6 to the Rural Center Reserve Fund established under G.S. 159G-22.  
7 (2) Twenty-five percent (25%) of the proceeds of each issuance of 2007  
8 Clean Water Bonds shall be used in the same manner as funds  
9 appropriated to the Clean Water State Revolving Fund established  
10 under G.S. 159G-22.  
11 (3) Twenty-five percent (25%) of the proceeds of each issuance of 2007  
12 Clean Water Bonds shall be used in the same manner as funds  
13 appropriated to the Drinking Water State Revolving Fund established  
14 under G.S. 159G-22.

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

17 "**§ 159G-20. Definitions.**

18 The following definitions apply in this Chapter:

19 ...

- 20 (16) Rural Center. – The Rural Economic Development Center, Inc., a  
21 nonprofit North Carolina corporation.  
22 (17) Rural Center Reserve. – The Rural Center Reserve established in  
23 G.S. 159G-22 as an account in the Water Infrastructure Fund."

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

25 "**§ 159G-21. Revenue for water projects.**

26 This Chapter governs the use of the following revenue:

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

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

39 "(h) Rural Center Reserve. – The Rural Center Reserve is established as an  
40 account within the Water Infrastructure Fund. The Account is established to receive  
41 funds that are to be used by the Rural Center for grants for publicly owned wastewater  
42 collection systems and wastewater treatment works and public water systems. Revenue  
43 in the Rural Center Reserve remains in the Reserve until disbursed for a grant under  
44 Article 3 of this Chapter."

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

2   "**§ 159G-23. Common criteria for loan or grant from Wastewater Reserve**  
3       **or Reserve, Drinking Water Reserve, Reserve, or Rural Center Reserve.**

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

11           ..."

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

13   "**§ 159G-24. Fee imposed on a loan or grant from Wastewater Reserve ~~or Reserve~~,**  
14       **Drinking Water Reserve, or Rural Center Reserve.**

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

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

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

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

32   "**§ 159G-26. Annual reports on Water Infrastructure Fund.**

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

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

43           (1) The beginning and ending balance of the account for the fiscal year.

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

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

19 **"§ 159G-27. Annual appropriation to Water Infrastructure Fund.**

20 There is annually appropriated from the General Fund to the Water Infrastructure  
21 Fund established in G.S. 159G-22 the sum of fifty million dollars (\$50,000,000) to be  
22 allocated as follows:

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

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

30 "Article 3.

31 "Water Infrastructure Grants Administered by Rural Center.

32 **"§ 159G-50. Definitions.**

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

- 34 (1) Ability to pay. – An assessment of the ability of a local government  
35 unit to pay for a water infrastructure project as calculated annually by  
36 the Division of Community Assistance in the Department of  
37 Commerce.
- 38 (2) Economically distressed area. – Any of the following:
  - 39 a. An economically distressed county as defined in  
40 G.S. 143B-437.01.
  - 41 b. That part of a county in which the poverty rate is at least one  
42 hundred fifty percent (150%) of the State poverty rate. The  
43 poverty rate is the percentage of the population whose income

1 is below the most recent federal poverty level set by the U.S.  
2 Bureau of the Census.

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

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

9 **"§ 159G-51. Management of Rural Center Reserve.**

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

15 **"§ 159G-52. Entities and projects eligible for grants.**

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

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

21 (1) Wastewater collection system.

22 (2) Wastewater treatment works.

23 (3) Public water system.

24 (4) Wastewater and drinking water infrastructure planning.

25 (5) Multi-jurisdictional wastewater, drinking water, water quality, and  
26 stormwater planning.

27 **"§ 159G-53. Grants available from Rural Center Reserve.**

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

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

40 (1) Eligibility. – A local government unit is eligible for a planning grant if  
41 it meets the following criteria. For purposes of this section, a regional  
42 council of government organized under G.S. 160A-460 or a regional  
43 planning and development commission organized under  
44 G.S. 153A-391 is considered a local government unit.

- 1           a.     It is a rural county or is located in one of these counties.  
2           b.     It is an economically distressed county or is located in an  
3                 economically distressed county or an economically distressed  
4                 area.  
5           c.     It is applying for a regional or multi-jurisdictional planning  
6                 project involving two or more units of local government  
7       (2)   Maximum. – A planning grant may not exceed forty thousand dollars  
8                 (\$40,000) for each unit of local government.  
9       (3)   Matching funds. – A local government unit must match a planning  
10                grant on a dollar-for-dollar basis unless the unit meets one or more of  
11                the following descriptions. If it meets one or more of these  
12                descriptions, the Rural Center may require a match of less than fifty  
13                percent (50%) or provide that no match is required.  
14           a.     It is an economically distressed county or located in an  
15                 economically distressed county.  
16           b.     Its poverty rate is at least one hundred fifty percent (150%) of  
17                 the State poverty rate.  
18           c.     If it is not a county, its ability to pay is less than fifty percent  
19                 (50%) of the ability to pay of the county in which it is located.  
20       (c)   Supplemental Grant. – A grant is available to match other funds to be applied  
21                to the construction costs of a project. Other funds include federal funds, State funds  
22                received under Article 2 of this Chapter, and local funds. A supplemental grant is  
23                subject to the following restrictions:  
24           (1)   Eligibility. – A local government unit is eligible for a supplemental  
25                 grant if it meets the following criteria:  
26                 a.     It is a rural county or is located in one of these counties.  
27                 b.     It adopts a resolution to set the household user fee for water and  
28                         sewer service in the area served by the project at an amount that  
29                         equals or exceeds the high-unit-cost threshold.  
30           (2)   Maximum. – A supplemental grant may not exceed five hundred  
31                 thousand dollars (\$500,000).  
32           (3)   Matching funds. – A local government unit must match a supplemental  
33                 grant on a dollar-for-dollar basis unless the unit meets one or more of  
34                 the following descriptions. If it meets one or more of these  
35                 descriptions, the Rural Center may require a match of less than fifty  
36                 percent (50%) or provide that no match is required.  
37                 a.     It is an economically distressed county or is located in an  
38                         economically distressed county.  
39                 b.     Its poverty rate is at least one hundred fifty percent (150%) of  
40                         the State poverty rate.  
41                 c.     If it is not a county, its ability to pay is less than fifty percent  
42                         (50%) of the ability to pay of the county in which it is located.

1       (d) Unservd Community Grant. – A grant is available to develop a publicly  
2 owned wastewater collection system or wastewater treatment works or a public water  
3 system. An unserved community grant is subject to the following restrictions:

4       (1) Eligibility. – A local government unit is eligible for an unserved  
5 community grant if it meets all of the following criteria:

6       a. It contains a community that is not served by a centralized,  
7 publicly owned wastewater collection system or wastewater  
8 treatment works or public water system.

9       b. Its population does not exceed 5,000 based on the most recent  
10 annual population estimates certified by the State Budget  
11 Officer.

12       c. Its median household income does not exceed ninety percent  
13 (90%) of the national median household income, based on data  
14 from the most recent federal decennial census and updated by  
15 the U.S. Department of Housing and Urban Development's  
16 annual estimated income adjustment factors.

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

20       e. It has demonstrated that the system is financially feasible with  
21 sufficient users and revenues to provide for operations,  
22 maintenance, and a capital reserve.

23       (2) Maximum. – An unserved community grant may not exceed either of  
24 the following:

25       a. Ninety percent (90%) of the costs of the project for which the  
26 grant is awarded.

27       b. Three million five hundred thousand dollars (\$3,500,000).

28       (3) Matching funds. – A local government unit must match an unserved  
29 community grant on a nine-to-one basis to provide an amount equal to  
30 ten percent (10%) of the grant from the Rural Center, unless the unit  
31 meets one or more of the following descriptions. If it meets one or  
32 more of these descriptions, the Rural Center may require a match of  
33 less than 10 percent (10%) or provide that no match is required.

34       a. It is an economically distressed county or is located in an  
35 economically distressed county.

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

38       c. If it is not a county, its ability to pay is less than fifty percent  
39 (50%) of the ability to pay of the county in which it is located.

40 **"§ 159G-54. Criteria for grants.**

41 The common criteria in G.S. 159G-23, the criteria set out in this Article, and any  
42 other criteria established by the Board of Directors of the Rural Center apply to a grant  
43 from the Rural Center Reserve. An application for a project that serves an economically  
44 distressed area has priority over a project that does not.

1 **"§ 159G-55. Application.**

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

11 **"§ 159G-56. Environmental assessment.**

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

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

30 **"§ 159G-57. Review of applications and award of grant.**

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

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

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



1 whether it accepts or rejects the offer. A grant is considered awarded when an offer to  
2 award the grant is issued.

3 **"§ 159G-58. Disbursement of grant.**

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

10 **"§ 159G-59. Withdrawal of grant.**

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

19 **"§ 159G-60. Inspection of project.**

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

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

- 27 (1) Is an officer or employee of the local government unit that received the  
28 grant award for the project.  
29 (2) Is an owner, officer, employee, or agent of a contractor or  
30 subcontractor engaged in the construction of the project for which the  
31 grant was made."

32 **SECTION 5.** Allocation of proceeds. – The proceeds of 2007 Clean Water  
33 Bonds and notes, including premium thereon, if any, except the proceeds of bonds the  
34 issuance of which has been anticipated by bond anticipation notes or the proceeds of  
35 refunding bonds or notes, shall be placed by the State Treasurer in a special fund to be  
36 designated "2007 Clean Water Bonds Fund," which may include such appropriate  
37 special accounts therein as may be determined by the State Treasurer and shall be  
38 disbursed as provided in this act. Moneys in the 2007 Clean Water Bonds Fund shall be  
39 allocated and expended as provided in this act.

40 Any additional moneys which may be received by means of a grant or grants  
41 from the United States of America or any agency or department thereof or from any  
42 other source for deposit to the 2007 Clean Water Bonds Fund may be placed in the 2007  
43 Clean Water Bonds Fund or in a separate account or fund and shall be disbursed, to the

1 extent permitted by the terms of the grant or grants, without regard to any limitations  
2 imposed by this act.

3 Moneys in the 2007 Clean Water Bonds Fund or any separate clean water  
4 fund or account established under this act may be invested from time to time by the  
5 State Treasurer in the same manner permitted for investment of moneys belonging to  
6 the State or held in the State treasury, except with respect to grant money to the extent  
7 otherwise directed by the terms of the grant. Investment earnings, except investment  
8 earnings with respect to grant moneys to the extent otherwise directed or restricted by  
9 the terms of the grant, may be (i) credited to the 2007 Clean Water Bonds Fund or any  
10 separate clean water fund or account established under this act, (ii) used to pay debt  
11 service on the bonds authorized by this act, (iii) used to satisfy compliance with  
12 applicable requirements of the federal tax law, or (iv) transferred to the General Fund of  
13 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  
17 available or which may be made available at the session of the General Assembly at  
18 which this act is ratified or any subsequent sessions. The proceeds of bonds and notes  
19 shall be expended and disbursed under the direction and supervision of the Director of  
20 the Budget. The funds provided by this act shall be disbursed for the purposes provided  
21 in 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 State Budget Act, Chapter 143C of the General Statutes.

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

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

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

42 **"[ ] FOR [ ] AGAINST**

43 the issuance of five hundred million dollars (\$500,000,000) State of North Carolina  
44 2007 Clean Water Bonds constituting general obligation bonds of the State secured by a

1 pledge of the faith and credit and taxing power of the State for the purpose of providing  
2 funds, with any other available funds, to make loans and grants to local government  
3 units to pay all or a portion of the cost of clean water projects."

4 If a majority of those voting on a bond question in the election vote in favor  
5 of the issuance of the bonds described in the question, those bonds may be issued as  
6 provided in this act. If a majority of those voting on a bond question in the election vote  
7 against the issuance of the bonds described in the question, those bonds shall not be  
8 issued.

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

13 **SECTION 7.** Issuance of bonds and notes. (a) Terms and conditions. –  
14 Bonds or notes may bear such date or dates, may be serial or term bonds or notes, or any  
15 combination thereof, may mature in such amounts and at such time or times, not  
16 exceeding 40 years from their date or dates, may be payable at such place or places,  
17 either within or without the United States of America, in such coin or currency of the  
18 United States of America as at the time of payment is legal tender for payment of public  
19 and private debts, may bear interest at such rate or rates, which may vary from time to  
20 time, and may be made redeemable before maturity, at the option of the State or  
21 otherwise as may be provided by the State, at such price or prices, including a price less  
22 than the face amount of the bonds or notes, and under such terms and conditions, all as  
23 may be determined by the State Treasurer, by and with the consent of the Council of  
24 State.

25 **SECTION 7.(b)** Signatures; form and denomination; registration. – Bonds  
26 or notes may be issued as certificated or uncertificated obligations. If issued as  
27 certificated obligations, bonds or notes shall be signed on behalf of the State by the  
28 Governor or shall bear his or her facsimile signature, shall be signed by the State  
29 Treasurer or shall bear his or her facsimile signature, and shall bear the Great Seal of the  
30 State or a facsimile thereof shall be impressed or imprinted thereon. If bonds or notes  
31 bear the facsimile signatures of the Governor and the State Treasurer, the bonds or notes  
32 shall also bear a manual signature which may be that of a bond registrar, trustee, paying  
33 agent, or designated assistant of the State Treasurer. Should any officer whose  
34 signature or facsimile signature appears on bonds or notes cease to be such officer  
35 before the delivery of the bonds or notes, the signature or facsimile signature shall  
36 nevertheless have the same validity for all purposes as if the officer had remained in  
37 office until delivery, and bonds or notes may bear the facsimile signatures of persons  
38 who at the actual time of the execution of the bonds or notes shall be the proper officers  
39 to sign any bond or note although at the date of the bond or note such persons may not  
40 have been such officers. The form and denomination of bonds or notes, including the  
41 provisions with respect to registration of the bonds or notes and any system for their  
42 registration, shall be as the State Treasurer may determine in conformity with this act;  
43 provided, however, that nothing in this act shall prohibit the State Treasurer from  
44 proceeding, with respect to the issuance and form of the bonds or notes, under the

1 provisions of Chapter 159E of the General Statutes, the Registered Public Obligations  
2 Act, as well as under this act.

3       **SECTION 7.(c)** Manner of sale; expenses. – Subject to determination by the  
4 Council of State as to the manner in which bonds or notes shall be offered for sale,  
5 whether at public or private sale, whether within or without the United States of  
6 America, and whether by publishing notices in certain newspapers and financial  
7 journals, mailing notices, inviting bids by correspondence, negotiating contracts of  
8 purchase or otherwise, the State Treasurer is authorized to sell bonds or notes at one  
9 time or from time to time at such rate or rates of interest, which may vary from time to  
10 time, and at such price or prices, including a price less than the face amount of the  
11 bonds or the notes, as the State Treasurer may determine. All expenses incurred in  
12 preparation, sale, and issuance of bonds or notes shall be paid by the State Treasurer  
13 from the proceeds of bonds or notes or other available moneys.

14       **SECTION 7.(d)** Notes; repayment.

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

- 19       a. For anticipating the sale of bonds to the issuance of which the  
20 Council of State shall have given consent, if the State Treasurer  
21 shall deem it advisable to postpone the issuance of the bonds;
- 22       b. For the payment of interest on or any installment of principal of  
23 any bonds then outstanding, if there shall not be sufficient funds  
24 in the State treasury with which to pay the interest or  
25 installment of principal as they respectively become due;
- 26       c. For the renewal of any loan evidenced by notes herein  
27 authorized;
- 28       d. For the purposes authorized in this act; and
- 29       e. For refunding bonds or notes as herein authorized.

30       (2) Funds derived from the sale of bonds or notes may be used in the  
31 payment of any bond anticipation notes issued under this act. Funds  
32 provided by the General Assembly for the payment of interest on or  
33 principal of bonds shall be used in paying the interest on or principal  
34 of any notes and any renewals thereof, the proceeds of which shall  
35 have been used in paying interest on or principal of the bonds.

36       **SECTION 7.(e)** Refunding bonds and notes. – By and with the consent of  
37 the Council of State, the State Treasurer is authorized to issue and sell refunding bonds  
38 and notes pursuant to the provisions of the State Refunding Bond Act for the purpose of  
39 refunding bonds or notes issued pursuant to this act. The refunding bonds and notes  
40 may be combined with any other issues of State bonds and notes similarly secured.

41       **SECTION 7.(f)** Tax exemption. – Bonds and notes shall be exempt from all  
42 State, county, and municipal taxation or assessment, direct or indirect, general or  
43 special, whether imposed for the purpose of general revenue or otherwise, excluding  
44 inheritance and gift taxes, income taxes on the gain from the transfer of bonds and

1 notes, and franchise taxes. The interest on bonds and notes shall not be subject to  
2 taxation as to income.

3 **SECTION 7.(g)** Investment eligibility. – Bonds and notes are hereby made  
4 securities in which all public officers, agencies, and public bodies of the State and its  
5 political subdivisions, all insurance companies, trust companies, investment companies,  
6 banks, savings banks, savings and loan associations, credit unions, pension or retirement  
7 funds, other financial institutions engaged in business in the State, executors,  
8 administrators, trustees, and other fiduciaries may properly and legally invest funds,  
9 including capital in their control or belonging to them. Bonds and notes are hereby  
10 made securities which may properly and legally be deposited with and received by any  
11 officer or agency of the State or political subdivision of the State for any purpose for  
12 which the deposit of bonds, notes, or obligations of the State or any political subdivision  
13 is now or may hereafter be authorized by law.

14 **SECTION 7.(h)** Faith and credit. – The faith and credit and taxing power of  
15 the State are hereby pledged for the payment of the principal of and the interest on  
16 bonds and notes. In addition to the State's right to amend any provision of this act to the  
17 extent it does not impair any contractual right of a bond owner, the State expressly  
18 reserves the right to amend any provision of this act with respect to the making and  
19 repayment of loans, the disposition of any repayments of loans, and any intercept  
20 provisions relating to the failure of a local government unit to repay a loan, the bonds  
21 not being secured in any respect by loans, any repayments thereof, or any intercept  
22 provisions with respect thereto.

23 **SECTION 7.(i)** Minority business participation. – The State Treasurer shall  
24 provide contracting opportunities for historically underutilized businesses in providing  
25 professional services in connection with the issuance of bonds and notes authorized by  
26 this act. As used in this subsection, the term "historically underutilized business" means  
27 a business described in G.S. 143-48. The State Treasurer shall strive to increase the  
28 amount of legal, financial, and other professional services acquired by it from  
29 historically underutilized businesses. With the assistance of the Office for Historically  
30 Underutilized Businesses in the Department of Administration, the State Treasurer shall  
31 set objectives for contracting with these businesses, identify and eliminate barriers or  
32 constraints that may restrict these businesses from contracting with the State Treasurer,  
33 and develop a plan for meeting these objectives. The State Treasurer shall report  
34 quarterly to the Office for Historically Underutilized Businesses on its progress in  
35 carrying out the requirements of this subsection.

36 **SECTION 7.(j)** Other agreements. – The State Treasurer may authorize,  
37 execute, obtain, or otherwise provide for bond insurance, investment contracts, credit  
38 and liquidity facilities, interest rate swap agreements and other derivative products, and  
39 any other related instruments and matters the State Treasurer determines are desirable in  
40 connection with the issuance, incurrence, carrying, or securing of bonds or notes.  
41 Subject to the provisions of subsection (i) of this section, the State Treasurer is  
42 authorized to employ and designate any financial consultants, underwriters, and bond  
43 attorneys to be associated with any bond issue under this act as the State Treasurer  
44 considers necessary.

1           **SECTION 8.** Variable interest rates. – In fixing the details of bonds and  
2 notes, the State Treasurer may provide that any of the bonds or notes may:

- 3           (1) Be made payable from time to time on demand or tender for purchase  
4 by the owner thereof provided a credit facility supports the bonds or  
5 notes, unless the State Treasurer specifically determines that a credit  
6 facility is not required upon a finding and determination by the State  
7 Treasurer that the absence of a credit facility will not materially or  
8 adversely affect the financial position of the State and the marketing of  
9 the bonds or notes at a reasonable interest cost to the State;
- 10          (2) Be additionally supported by a credit facility;
- 11          (3) Be made subject to redemption or a mandatory tender for purchase  
12 prior to maturity;
- 13          (4) Bear interest at a rate or rates that may vary for such period or periods  
14 of time, all as may be provided in the proceedings providing for the  
15 issuance of the bonds or notes, including, without limitation, such  
16 variations as may be permitted pursuant to a par formula; and
- 17          (5) Be made the subject of a remarketing agreement whereby an attempt is  
18 made to remarket bonds or notes to new purchasers prior to their  
19 presentment for payment to the provider of the credit facility or to the  
20 State.

21           If the aggregate principal amount repayable by the State under a credit facility  
22 is in excess of the aggregate principal amount of bonds or notes secured by the credit  
23 facility, whether as a result of the inclusion in the credit facility of a provision for the  
24 payment of interest for a limited period of time or the payment of a redemption  
25 premium or for any other reason, then the amount of authorized but unissued bonds or  
26 notes during the term of such credit facility shall not be less than the amount of such  
27 excess, unless the payment of such excess is otherwise provided for by agreement of the  
28 State executed by the State Treasurer.

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

34           **SECTION 9.(b)** Statutory references. – References in this act to specific  
35 sections or Chapters of the General Statutes or to specific acts are intended to be  
36 references to these sections, Chapters, or acts as they may be amended from time to  
37 time by the General Assembly.

38           **SECTION 9.(c)** Broad construction. – This act, being necessary for the  
39 health and welfare of the people of the State, shall be broadly construed to effect the  
40 purposes thereof.

41           **SECTION 9.(d)** Inconsistent provisions. – Insofar as the provisions of this  
42 act are inconsistent with the provisions of any general laws, or parts thereof, the  
43 provisions of this act shall be controlling.

1           **SECTION 9.(e)** Severability. – If any provision of this act or the application  
2 thereof to any person or circumstance is held invalid, such invalidity shall not affect  
3 other provisions or applications of the act which can be given effect without the invalid  
4 provision or application, and to this end the provisions of this act are declared to be  
5 severable.

6           **SECTION 10.** This act is effective when it becomes law.