

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2009

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SENATE BILL 1260

Short Title: Critical Water Grants/Jobs in Rural Areas. (Public)

Sponsors: Senators Snow; Allran, Apodaca, Atwater, Berger of Franklin, Bingham, Blake, Blue, Brown, Clary, Davis, Dickson, East, Foriest, Forrester, Goss, Graham, Hoyle, Jacumin, Jenkins, Jones, Kinnaird, McKissick, Nesbitt, Preston, Purcell, Queen, Swindell, Vaughan, and Walters.

Referred to: Appropriations/Base Budget.

May 20, 2010

A BILL TO BE ENTITLED

AN ACT TO APPROPRIATE FUNDS TO THE RURAL ECONOMIC DEVELOPMENT CENTER FOR CRITICAL WATER AND WASTEWATER GRANTS TO STIMULATE CONSTRUCTION JOBS IN RURAL AREAS.

Whereas, it is imperative to address the critical water and wastewater needs in rural North Carolina and to support at least 3,500 construction jobs that will stimulate local economies still lagging as the State begins to emerge from the recession; Now, therefore, The General Assembly of North Carolina enacts:

**SECTION 1.(a)** Appropriation. – There is appropriated from the General Fund to the Rural Economic Development Center, Inc., (Rural Center) the sum of fifty million dollars (\$50,000,000) for the 2010-2011 fiscal year to be used to provide grants to local government units for wastewater-related projects and for public water system-related projects as provided by this section. Funds may also be used to provide emergency water and sewer grants.

**SECTION 1.(b)** Definitions. – The definitions in G.S. 159G-20 apply in this section. In addition, the following definitions shall apply in this section unless otherwise provided:

- (1) Ability to pay. – An assessment of the ability of a local government unit to pay for a water infrastructure project as calculated annually by the Division of Community Assistance in the Department of Commerce.
- (2) Economically distressed area. – Any of the following:
  - a. An economically distressed county as defined in G.S. 143B-437.01.
  - b. That part of a county in which the poverty rate is at least one hundred fifty percent (150%) of the State poverty rate. The poverty rate is the percentage of the population whose income is below the most recent federal poverty level set by the U.S. Bureau of the Census.
  - c. If it is not a county, its ability to pay is less than fifty percent (50%) of the ability to pay of the county in which it is located.
- (3) Rural county. – A county with a population density of fewer than 250 people per square mile based on the most recent federal decennial census.

**SECTION 1.(c)** Eligible Applicants; Eligible Projects. – A local government unit is eligible for a grant under this section if it meets the eligibility requirements under subsection (d) of this section. The funds appropriated under this section may be used to provide a supplemental grant that meets the requirements of subsection (d) and subsection (e) of this section. The following projects are eligible for receiving a grant under this section:



- 1 (1) Wastewater collection system.
- 2 (2) Wastewater treatment works.
- 3 (3) Public water system.

4 **SECTION 1.(d)** Supplemental Grants. – A supplemental grant is available to  
5 match other funds to be applied to the construction costs of an eligible project. Other funds  
6 include federal funds, State funds, and local funds. A supplemental grant is subject to the  
7 following restrictions:

- 8 (1) Eligibility. – A local government unit is eligible for a supplemental grant if it  
9 meets the following criteria:
  - 10 a. It is a rural county or is located in one of these counties.
  - 11 b. It adopts a resolution to set the household user fee for water and  
12 sewer service in the area served by the project at an amount that  
13 equals or exceeds the high-unit-cost threshold.
- 14 (2) Maximum. – A supplemental grant shall not exceed five hundred thousand  
15 dollars (\$500,000) unless the applicant meets one or more of these  
16 descriptions:
  - 17 a. It is an economically distressed county or is located in an  
18 economically distressed county.
  - 19 b. Its poverty rate is at least one hundred fifty percent (150%) of the  
20 State poverty rate.
  - 21 c. If it is not a county, its ability to pay is less than fifty percent (50%)  
22 of the ability to pay of the county in which it is located.

23 The maximum supplemental grant for an applicant meeting at least one of  
24 these descriptions is the lesser of one million dollars (\$1,000,000) or  
25 twenty-five percent (25%) of the total project cost.

- 26 (3) Matching funds. – A local government unit shall match a supplemental grant  
27 on a dollar-for-dollar basis unless the unit meets one or more of the  
28 following descriptions, in which instance the Rural Center may require a  
29 match of fifty percent (50%) or less:
  - 30 a. It is an economically distressed county or is located in an  
31 economically distressed county.
  - 32 b. Its poverty rate is at least one hundred fifty percent (150%) of the  
33 State poverty rate.
  - 34 c. If it is not a county, its ability to pay is less than fifty percent (50%)  
35 of the ability to pay of the county in which it is located.

36 A local government unit that meets one or more of these descriptions may  
37 not provide less than a dollar-for-dollar match if the supplemental grant  
38 amount requested exceeds five hundred thousand dollars (\$500,000).

39 **SECTION 1.(e)** Criteria for Grants. – All projects must document a current critical  
40 water or wastewater need affecting human health or the environment or must document a  
41 critical economic development need. The criteria in G.S. 159G-23, the criteria set out in this  
42 section, and any other criteria established by the Board of Directors of the Rural Center shall  
43 apply to a grant provided under this section. An application for a project that serves an  
44 economically distressed area shall have priority over a project that does not. The Board of  
45 Directors of the Rural Center may determine that a crisis need exists that merits special  
46 consideration and may establish one or more subcategories of this program to address  
47 applications that will meet the needs identified.

48 **SECTION 1.(f)** Grant Applications. – Any application for a grant under this  
49 section shall be submitted by the local government unit to the Rural Center. An application  
50 shall be submitted on a form prescribed by the Rural Center and shall contain the information  
51 required by the Rural Center. An applicant shall submit to the Rural Center any additional

1 information requested by the Rural Center to enable the Rural Center to make a determination  
2 on the application. An application that does not contain information required for the application  
3 or requested by the Rural Center is incomplete and is not eligible for consideration.

4 **SECTION 1.(g)** Environmental Assessment. – An application submitted under this  
5 section for a supplemental grant shall state whether the project to be funded by the grant  
6 requires an environmental assessment. If the application indicates that an environmental  
7 assessment is not required, it must identify the exclusion in the North Carolina Environmental  
8 Policy Act, Article 1 of Chapter 113A of the General Statutes that applies to the project. An  
9 application that does not identify an exclusion in the North Carolina Environmental Policy Act  
10 shall include evidence that the environmental assessment of the project's probable impacts on  
11 the environment was submitted to the Department of Environment and Natural Resources or to  
12 the relevant federal agency providing financing for the project.

13 **SECTION 1.(h)** Review of Applications and Award of Grant. – The Rural Center  
14 shall review grant applications and award grants as provided by this subsection:

- 15 (1) Point assignment. – The Rural Center shall review all grant applications  
16 submitted under this section for an application period, to be determined by  
17 the Rural Center, and shall rank each application in accordance with the  
18 points assigned to the evaluation criteria. Applications addressing a crisis  
19 need may be ranked according to a special set of criteria or be reviewed for a  
20 specifically determined application period. The Rural Center's determination  
21 of rank is conclusive.
- 22 (2) Reconsideration. – When an application's rank is too low to receive an award  
23 of a grant for the application period, the Rural Center may consider a new  
24 application for the same project, provided the application addresses  
25 questions from the previous grant round. The Rural Center may reject any  
26 resubmission of the same project that does not adequately address questions  
27 from the previous grant round. The Rural Center's determination of  
28 adequacy is conclusive.
- 29 (3) Notification of decision. – When the Rural Center determines that an  
30 application's rank makes it eligible for an award of a grant, the Rural Center  
31 shall send the applicant a letter of intent to award the grant. The notice shall  
32 set out any conditions the applicant must meet to receive an award of a  
33 grant. When the applicant satisfies the conditions set out in the letter of  
34 intent, the Rural Center shall send the applicant an offer to award a grant.  
35 The applicant shall give the Rural Center written notice of whether it accepts  
36 or rejects the offer. A grant is considered awarded the date the offer to award  
37 the grant is sent by the Rural Center.

38 **SECTION 1.(i)** Disbursement of Grant. – A grant awarded under this section shall  
39 be disbursed in two or more payments based on the progress of the project for which the grant  
40 was awarded. To obtain a payment, a grant recipient shall submit a request for payment to the  
41 Rural Center and shall document the expenditures for which the payment is requested. The  
42 Rural Center shall review the payment request for compliance with all grant conditions.

43 **SECTION 1.(j)** Withdrawal of Grant. – An award for a supplemental grant for a  
44 project is withdrawn if the applicant fails to enter into a construction contract for the project  
45 within one year after the date of the award, unless the Board of Directors of the Rural Center  
46 finds that the applicant has good cause for the failure. If the Rural Center finds good cause for  
47 an applicant's failure, the Rural Center shall set a date by which the applicant must take action  
48 or forfeit the grant.

49 **SECTION 1.(k)** Inspection of Project. – The Rural Center may inspect a project as  
50 provided by this subsection:

1 (1) Authority. – The Rural Center may inspect a project for which it awards a  
2 grant under this section to determine the progress made on the project and  
3 whether the construction of the project is consistent with the project  
4 described in the grant application. The inspection may be performed by  
5 personnel of the Rural Center or by a professional engineer licensed under  
6 Chapter 89C of the General Statutes.

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

9 a. Is an officer or employee of the local government unit that received  
10 the grant award for the project.

11 b. Is an owner, officer, employee, or agent of a contractor or  
12 subcontractor engaged in the construction of the project for which the  
13 grant was made.

14 **SECTION 1.(l)** Administration Costs. – The Rural Center may use a portion of the  
15 funds appropriated under this section for administration, not to exceed two percent (2%), for  
16 the life of the grant program created by this section.

17 **SECTION 1.(m)** Reporting Requirement. – The Rural Center shall report annually  
18 to the Joint Legislative Commission on Governmental Operations regarding the progress of the  
19 grant program created under this section. The report required by this subsection may be  
20 included as part of the Rural Center's annual report required by subsection 14.27(e) of S.L.  
21 2009-451. The first report required under this subsection is due no later than September 1,  
22 2011.

23 **SECTION 1.(n)** Separate Accounts. – Each grant that is provided under this  
24 section shall be administered through a separate account.

25 **SECTION 1.(o)** Loans Prohibited. – The Rural Center shall not use the funds  
26 appropriated under this section to make loans.

27 **SECTION 2.** This act becomes effective July 1, 2010.