

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

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SENATE BILL 232
Finance Committee Substitute Adopted 4/17/97

Short Title: Clean Water Bonds.

(Public)

Sponsors:

Referred to: Appropriations.

February 24, 1997

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 PROVIDE FUNDS FOR GRANTS, LOANS, AND REVOLVING LOANS TO LOCAL GOVERNMENT UNITS FOR WATER SUPPLY SYSTEMS, WASTEWATER COLLECTION SYSTEMS, WASTEWATER TREATMENT WORKS, AND WATER CONSERVATION PROJECTS.

The General Assembly of North Carolina enacts:

Section 1. Short title. This act shall be known as the "Clean Water Bond Act of 1997".

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

- (1) \$200,000,000 to provide State matching funds required to receive federal wastewater or water supply assistance funds and to provide additional funding for the Clean Water Revolving Loan and Grant Fund established in Chapter 159G of the General Statutes or to provide funding by grants and loans to local government units; and

- 1 (2) \$800,000,000 to provide loans to local government units to finance all
2 or a portion of the cost of construction, improvements, enlargements,
3 extensions, and reconstruction of water supply systems, wastewater
4 collection systems, wastewater treatment works, and water conservation
5 projects.

6 The funds to be derived from the sale of the Clean Water Bonds
7 authorized by this act are sufficient to meet no more than a fraction of
8 the needs that now exist and will arise in the immediate future. For this
9 reason, although public necessity and the criteria established by Chapter
10 159G of the General Statutes shall be the primary consideration in
11 granting and loaning funds, great emphasis shall also be placed on
12 achieving stringent reductions in the levels of nutrients and other
13 pollutants discharged into the State's waters, particularly in nutrient
14 sensitive river basins, in reducing the overall volume of effluent
15 discharged to the State's waters by using alternative methods of
16 wastewater treatment when feasible, on the creation of efficient systems
17 of regional wastewater disposal and regional water supply, and on the
18 willingness and ability of local government units to meet their
19 responsibilities through sound fiscal policies, creative planning, and
20 efficient operation and management.

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

- 23 (1) " Bonds" means bonds issued under this act.
24 (2) " Clean Water Revolving Loan and Grant Act" means Chapter 796 of
25 the 1987 Session Laws, as amended from time to time, codified as
26 Chapter 159G of the General Statutes.
27 (3) " Clean Water Revolving Loan and Grant Fund" means the Clean Water
28 Revolving Loan and Grant Fund as defined in the Clean Water
29 Revolving Loan and Grant Act.
30 (4) " Cost" means, without intending thereby to limit or restrict any proper
31 definition of this term in financing the cost of facilities or purposes
32 authorized by this act:
33 a. The cost of constructing, reconstructing, enlarging, acquiring,
34 and improving facilities, and acquiring equipment and land
35 therefor,
36 b. The cost of engineering, architectural, and other consulting
37 services as may be required,
38 c. Administrative expenses and charges,
39 d. Finance charges and interest prior to and during construction and,
40 if deemed advisable by the State Treasurer, for a period not
41 exceeding two years after the estimated date of completion of
42 construction,

- 1 e. The cost of bond insurance, investment contracts, credit
2 enhancement and liquidity facilities, interest-rate swap
3 agreements or other derivative products, financial and legal
4 consultants, and related costs of bond and note issuance, to the
5 extent and as determined by the State Treasurer,
6 f. The cost of reimbursing the State for any payments made for any
7 cost described above, and
8 g. Any other costs and expenses necessary or incidental to the
9 purposes of this act.

10 Allocations in this act of proceeds of bonds to the costs of a project or
11 undertaking in each case may include allocations to pay the costs set
12 forth in items c., d., e., f., and g. in connection with the issuance of
13 bonds for the project or undertaking.

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

1 affect the financial position of the State and the marketing of
2 bonds or notes at a reasonable interest cost to the State.

3 (9) " State" means the State of North Carolina.

4 (10) " Wastewater collection systems" means wastewater collection systems
5 as defined in the Clean Water Revolving Loan and Grant Act.

6 (11) " Wastewater treatment works" means wastewater treatment works as
7 defined in the Clean Water Revolving Loan and Grant Act.

8 (12) " Water conservation projects" include, but are not limited to, any
9 construction, repair, renovation, expansion, replacement of components,
10 or other capital improvement, including related equipment and land
11 acquisition, designed to:

12 a. Eliminate the wasteful or unnecessary use or loss of water in the
13 operations of a wastewater collection system, wastewater
14 treatment works, or water supply system; or

15 b. Enhance the operation of a wastewater collection system,
16 wastewater treatment works, or water supply system to provide a
17 more efficient use of water.

18 (13) " Water Pollution Control Revolving Fund" means the fund described
19 by G.S. 159G-4(a) and G.S. 159G-5(c).

20 (14) " Water supply systems" means water supply systems as defined in the
21 Clean Water Revolving Loan and Grant Act.

22 Section 4. Authorization of bonds and notes. Subject to a favorable vote of a
23 majority of the qualified voters of the State who vote on the question of issuing Clean
24 Water Bonds in the election called and held as provided in this act, the State Treasurer is
25 hereby authorized, by and with the consent of the Council of State, to issue and sell, at
26 one time or from time to time, general obligation bonds of the State to be designated
27 "State of North Carolina Clean Water Bonds", with any additional designations as may be
28 determined to indicate the issuance of bonds from time to time, or notes of the State as
29 provided in this act, in an aggregate principal amount not exceeding one billion dollars
30 (\$1,000,000,000) for the purpose of providing funds, with any other available funds, for
31 the purposes authorized in this act.

32 Section 5. Uses of bond and note proceeds. The proceeds of Clean Water
33 Bonds and notes shall be used for the purpose of making loans and grants to local
34 governments as follows:

35 (1) The proceeds of two hundred million dollars (\$200,000,000) of Clean
36 Water Bonds shall be used and allocated for the same purposes for
37 which funds in the Clean Water Revolving Loan and Grant Fund may
38 be used including, without limitation, to provide funds to be used to
39 make revolving loans and grants to local government units. The
40 revolving loans and grants shall be made for the purpose of paying the
41 cost of water supply systems, wastewater collection systems, and
42 wastewater treatment works.

1 The first priority for use of these proceeds shall be to provide State
2 funds necessary for the 1998-99 and 1999-2000 fiscal years to match the
3 federal wastewater or water supply assistance funds deposited in the
4 Water Pollution Control Revolving Fund or another fund that is used to
5 pay the cost of water supply systems, wastewater collection systems, or
6 wastewater treatment works and is eligible to receive federal matching
7 funds, unless the General Assembly has provided the required match
8 through other revenue, in which event this priority shall cease to exist to
9 the extent of the availability of the other revenue. For the purpose of
10 implementing this priority, the Department of Environment, Health, and
11 Natural Resources shall certify to the State Treasurer the amount of
12 funds required for the State match for each of the fiscal years ending
13 June 30, 1999, and June 30, 2000, and the extent to which the General
14 Assembly has provided other funds for this purpose. Upon certification
15 to the State Treasurer of the amount of funds required for the State
16 match for the fiscal year ending June 30, 1999, the State may issue up to
17 one hundred million dollars (\$100,000,000) of Clean Water Bonds
18 authorized by this subdivision for the purpose of funding the State
19 match for that fiscal year and for any other purposes authorized by this
20 subdivision. Upon certification to the State Treasurer of the amount of
21 funds required for the State match for the fiscal year ending June 30,
22 2000, the State may issue the remaining balance of Clean Water Bonds
23 authorized by this subdivision for the purpose of funding the State
24 match for that fiscal year and for any other purposes authorized by this
25 subdivision. The proceeds of the bonds necessary for the State match
26 for each fiscal year shall be deposited in the Water Pollution Control
27 Revolving Fund or another appropriate fund or account determined by
28 the State Treasurer.

29 The proceeds may be (i) transferred directly to the Clean Water
30 Revolving Loan and Grant Fund to make revolving loans or grants, (ii)
31 used to make revolving loans or grants directly to the appropriate local
32 government qualifying for a revolving loan or grant from the Clean
33 Water Revolving Loan and Grant Fund, (iii) used for any combination
34 of (i) and (ii), or (iv) used in such other manner as shall effectuate the
35 purposes of this act. Although public necessity and the criteria
36 established by Chapter 159G of the General Statutes shall be the
37 primary consideration in granting and loaning funds, great emphasis
38 shall also be placed on achieving stringent reductions in the levels of
39 nutrients and other pollutants discharged into the State's waters,
40 particularly in nutrient sensitive river basins, in reducing the overall
41 volume of effluent discharged to the State's waters by using alternative
42 methods of wastewater treatment when feasible, on the creation of
43 efficient systems of regional wastewater disposal and regional water

1 supply, and on the willingness and ability of local government units to
2 meet their responsibilities through sound fiscal policies, creative
3 planning, and efficient operation and management. Loans and grants
4 made from bond proceeds transferred from the Clean Water Bonds Fund
5 to the Clean Water Revolving Loan and Grant Fund shall be made and
6 administered in accordance with the provisions of the Clean Water
7 Revolving Loan and Grant Act. Loans and grants made from bond
8 proceeds directly to local government units and any loan repayments
9 shall, to the extent applicable, be made, administered, and applied in
10 accordance with the provisions of the Clean Water Revolving Loan and
11 Grant Act. Repayments of any direct loans may be initially placed into
12 any fund or account as may be determined by the State Treasurer for the
13 purpose of determining compliance with the applicable requirements of
14 the federal tax law and shall be expended and disbursed therefrom under
15 the direction and supervision of the Director of the Budget.

- 16 (2) The proceeds of eight hundred million dollars (\$800,000,000) of Clean
17 Water Bonds shall be used for the purpose of making loans to local
18 government units to pay the cost of water supply systems, water
19 conservation projects, wastewater collection systems, and wastewater
20 treatment works. Sixty-nine percent (69%) of the proceeds of the bonds
21 and notes shall be allocated for loans to local government units for
22 wastewater collection systems and wastewater treatment works. Thirty-
23 one percent (31%) of the proceeds of the bonds and notes shall be
24 allocated for loans to local government units for water supply systems
25 and water conservation projects.

26 The proceeds shall be used to make loans directly to local
27 government units qualifying for a loan from the Clean Water Revolving
28 Loan and Grant Fund or loaned in such other manner as shall effectuate
29 the purposes of this act. To qualify for a loan from the Clean Water
30 Bonds Fund for the purpose of paying the cost of water supply systems,
31 a local government unit must have a water supply facility plan approved
32 by the Department of Environment, Health, and Natural Resources. A
33 water supply facility plan submitted by a local government unit to the
34 Department under G.S. 143-355(l) will be sufficient to meet this
35 requirement. To qualify for a loan from the Clean Water Bonds Fund
36 for the purpose of paying the cost of wastewater collection systems or
37 wastewater treatment works, a local government unit must have a
38 wastewater facility plan approved by the Department of Environment,
39 Health, and Natural Resources. A wastewater facility plan must project
40 future wastewater treatment needs, must present a long-range plan to
41 meet those needs, and must include plans for system operations and
42 maintenance of the facilities being built with the bond proceeds.

1 The Department of Environment, Health, and Natural Resources
2 shall set the priorities and determine the eligibility of local government
3 units for these loans in accordance with Section 10 of this act. The form
4 of the loans and the details thereof including, without limitation, the
5 maturity, interest rate, and amortization schedule, shall be determined,
6 from time to time, by the State Treasurer. In making these
7 determinations, the State Treasurer shall consider the purpose of the
8 loans, the ability of local government units to repay the loans, and the
9 security for the loans. The interest rates on these loans shall reflect the
10 self-supporting nature of the loan program and shall be sufficient to
11 cover substantially all payments of debt service on the eight hundred
12 million dollars (\$800,000,000) of Clean Water Bonds and the issuance
13 costs and administrative expenses associated with the issuance of these
14 bonds and the making of these loans, subject to any applicable
15 requirements of the federal tax law.

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

23 Any additional moneys which may be received by means of a grant or grants
24 from the United States of America or any agency or department thereof or from any other
25 source for deposit to the Clean Water Bonds Fund may be placed in the Clean Water
26 Bonds Fund or in a separate account or fund and shall be disbursed, to the extent
27 permitted by the terms of the grant or grants, without regard to any limitations imposed
28 by this act.

29 The proceeds of bonds and notes may be used with any other moneys made
30 available by the General Assembly for making grants and loans authorized by this act,
31 including the proceeds of any other State bond issues, whether heretofore made available
32 or which may be made available at the session of the General Assembly at which this act
33 is ratified or any subsequent sessions. The proceeds of bonds and notes shall be
34 expended and disbursed under the direction and supervision of the Director of the
35 Budget. The funds provided by this act shall be disbursed for the purposes provided in
36 this act upon warrants drawn on the State Treasurer by the State Controller, which
37 warrants shall not be drawn until requisition has been approved by the Director of the
38 Budget and which requisition shall be approved only after full compliance with the
39 Executive Budget Act, Article 1 of Chapter 143 of the General Statutes.

40 Section 6. Allocation of proceeds. The proceeds of Clean Water Bonds and
41 notes, including premium thereon, if any, except the proceeds of bonds the issuance of
42 which has been anticipated by bond anticipation notes or the proceeds of refunding bonds
43 or notes, shall be placed by the State Treasurer in a special fund to be designated "Clean

1 Water Bonds Fund", which may include such appropriate special accounts therein as may
2 be determined by the State Treasurer, and shall be disbursed as provided in this act.
3 Moneys in the Clean Water Bonds Fund shall be allocated and expended as provided in
4 this act.

5 Allocations to the costs of a capital improvement or undertaking in each case
6 may include allocations to pay the costs set forth in Section 3(4)c., d., e., f., and g. of this
7 act in connection with the issuance of bonds for that capital improvement or undertaking.

8 Section 7. Election. The question of the issuance of the bonds authorized by
9 this act shall be submitted to the qualified voters of the State at the next statewide
10 election or statewide primary election, whichever comes first. Any other primary,
11 election, or referendum validly called or scheduled by law at the time the election on the
12 bond questions provided for in this section is held, may be held as called or scheduled.
13 Notice of the election shall be given in the manner and at the times required by G.S. 163-
14 33(8). The election and the registration of voters therefor shall be held under and in
15 accordance with the general laws of the State. Absentee ballots shall be authorized in the
16 election.

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

21 Ballots, voting systems authorized by Article 14 of Chapter 163 of the General
22 Statutes, or both may be used in accordance with rules prescribed by the State Board of
23 Elections. The bond question to be used in the ballots or voting systems shall be in
24 substantially the following form:

25 "[] FOR the issuance of one billion dollars (\$1,000,000,000) State of North
26 Carolina Clean Water Bonds constituting general obligation bonds of
27 the State secured by a pledge of the faith and credit and taxing power of
28 the State for the purpose of providing funds, with any other available
29 funds, to make loans, revolving loans, and grants to local government
30 units to pay all or a portion of the cost of clean water projects.

31 [] AGAINST the issuance of one billion dollars (\$1,000,000,000) State of
32 North Carolina Clean Water Bonds constituting general obligation
33 bonds of the State secured by a pledge of the faith and credit and taxing
34 power of the State for the purpose of providing funds, with any other
35 available funds, to make loans, revolving loans, and grants to local
36 government units to pay all or a portion of the cost of clean water
37 projects."

38 If a majority of those voting on the Clean Water Bond question in the election
39 vote in favor of the issuance of the bonds, the bonds may be issued as provided in this
40 act. If a majority of those voting on the Clean Water Bond question in the election vote
41 against the issuance of the bonds, the bonds shall not be issued.

42 The results of the election shall be canvassed and declared as provided by law
43 for elections for State officers; the results of the election shall be certified by the State

1 Board of Elections to the Secretary of State, in the manner and at the time provided by
2 the general election laws of the State.

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

14 (b) Signatures; Form and Denomination; Registration. Bonds or notes may be
15 issued as certificated or uncertificated obligations. If issued as certificated obligations,
16 bonds or notes shall be signed on behalf of the State by the Governor or shall bear his
17 facsimile signature, shall be signed by the State Treasurer or shall bear his facsimile
18 signature, and shall bear the Great Seal of the State or a facsimile thereof shall be
19 impressed or imprinted thereon. If bonds or notes bear the facsimile signatures of the
20 Governor and the State Treasurer, the bonds or notes shall also bear a manual signature
21 which may be that of a bond registrar, trustee, paying agent, or designated assistant of the
22 State Treasurer. Should any officer whose signature or facsimile signature appears on
23 bonds or notes cease to be such officer before the delivery of the bonds or notes, the
24 signature or facsimile signature shall nevertheless have the same validity for all purposes
25 as if the officer had remained in office until delivery and bonds or notes may bear the
26 facsimile signatures of persons who at the actual time of the execution of the bonds or
27 notes shall be the proper officers to sign any bond or note although at the date of the bond
28 or note such persons may not have been such officers. The form and denomination of
29 bonds or notes, including the provisions with respect to registration of the bonds or notes
30 and any system for their registration, shall be as the State Treasurer may determine in
31 conformity with this act; provided, however, that nothing in this act shall prohibit the
32 State Treasurer from proceeding, with respect to the issuance and form of the bonds or
33 notes, under the provisions of Chapter 159E of the General Statutes, the Registered
34 Public Obligations Act, as well as under this act.

35 (c) Manner of Sale; Expenses. Subject to determination by the Council of State as
36 to the manner in which bonds or notes shall be offered for sale, whether at public or
37 private sale, whether within or without the United States of America, and whether by
38 publishing notices in certain newspapers and financial journals, mailing notices, inviting
39 bids by correspondence, negotiating contracts of purchase or otherwise, the State
40 Treasurer is authorized to sell bonds or notes at one time or from time to time at such rate
41 or rates of interest, which may vary from time to time, and at such price or prices,
42 including a price less than the face amount of the bonds or the notes, as the State
43 Treasurer may determine. All expenses incurred in preparation, sale, and issuance of

1 bonds or notes shall be paid by the State Treasurer from the proceeds of bonds or notes or
2 other available moneys.

3 (d) Notes; Repayment.

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

8 a. For anticipating the sale of bonds to the issuance of which the
9 Council of State shall have given consent, if the State Treasurer
10 shall deem it advisable to postpone the issuance of the bonds;

11 b. For the payment of interest on or any installment of principal of
12 any bonds then outstanding, if there shall not be sufficient funds
13 in the State treasury with which to pay the interest or installment
14 of principal as they respectively become due;

15 c. For the renewal of any loan evidenced by notes herein
16 authorized;

17 d. For the purposes authorized in this act; and

18 e. For refunding bonds or notes as herein authorized.

19 (2) Funds derived from the sale of bonds or notes may be used in the
20 payment of any bond anticipation notes issued under this act. Funds
21 provided by the General Assembly for the payment of interest on or
22 principal of bonds shall be used in paying the interest on or principal of
23 any notes and any renewals thereof, the proceeds of which shall have
24 been used in paying interest on or principal of the bonds.

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

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

35 (g) Investment Eligibility. Bonds and notes are hereby made securities in
36 which all public officers, agencies, and public bodies of the State and its political
37 subdivisions, all insurance companies, trust companies, investment companies, banks,
38 savings banks, savings and loan associations, credit unions, pension or retirement funds,
39 other financial institutions engaged in business in the State, executors, administrators,
40 trustees, and other fiduciaries may properly and legally invest funds, including capital in
41 their control or belonging to them. Bonds and notes are hereby made securities which
42 may properly and legally be deposited with and received by any officer or agency of the
43 State or political subdivision of the State for any purpose for which the deposit of bonds,

1 notes, or obligations of the State or any political subdivision is now or may hereafter be
2 authorized by law.

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

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

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

31 If the aggregate principal amount repayable by the State under a credit facility
32 is in excess of the aggregate principal amount of bonds or notes secured by the credit
33 facility, whether as a result of the inclusion in the credit facility of a provision for the
34 payment of interest for a limited period of time or the payment of a redemption premium
35 or for any other reason, then the amount of authorized but unissued bonds or notes during
36 the term of such credit facility shall not be less than the amount of such excess, unless the
37 payment of such excess is otherwise provided for by agreement of the State executed by
38 the State Treasurer.

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

1 (b) Clean Water Bonds Loan Fund. There is established in the Department of
2 State Treasurer a fund to be known as the Clean Water Bonds Loan Fund, which may
3 include any special or segregated accounts the State Treasurer considers appropriate.
4 There shall be deposited in the Clean Water Bonds Loan Fund proceeds of the Clean
5 Water Bonds and notes to be used to make loans, other than loans to be made through the
6 Clean Water Revolving Loan and Grant Fund, to local government units for clean water
7 projects as provided in this act. Funds in the various accounts may be invested from time
8 to time by the State Treasurer in the same manner permitted for investment of funds
9 belonging to the State or held in the State treasury. Any investment earnings shall be
10 credited to the particular account from which the investment was made.

11 All moneys accruing to the credit of the Clean Water Bonds Loan Fund, other
12 than funds set aside for administrative expenses, including expenses related to
13 determining compliance with applicable requirements of the federal tax law and costs of
14 issuance, shall be used to make loans for the purposes provided in this act. The State
15 Treasurer shall be responsible for making and administering all loans pursuant to the
16 provisions of this section.

17 (c) Application for Loans; Hearings.

18 (1) Eligibility/Initial Hearing.

- 19 a. Prior to filing an application for a loan, a local government unit
20 shall hold a public hearing. A notice of the public hearing shall
21 be published once at least 10 days before the date fixed for the
22 hearing.
- 23 b. All applications for loans shall be filed with the Department of
24 Environment, Health, and Natural Resources. The form of the
25 application shall be prescribed by the Department and shall
26 require any information necessary to determine the eligibility for
27 a loan under the provisions of this section. All applications
28 approved by the Department of Environment, Health, and
29 Natural Resources shall be filed with the Local Government
30 Commission. Each applicant shall furnish to the Department of
31 Environment, Health, and Natural Resources and the Local
32 Government Commission information in addition or
33 supplemental to the information contained in its application,
34 upon request.
- 35 c. A local government unit shall not be eligible for a loan unless it
36 demonstrates to the satisfaction of the Department of
37 Environment, Health, and Natural Resources and the Local
38 Government Commission that:
- 39 1. The applicant is a local government unit;
 - 40 2. The applicant has the financial capacity to pay the
41 principal of and interest on its proposed loan as evidenced
42 by the approval of the Local Government Commission;

- 1 3. The applicant has substantially complied or will
2 substantially comply with all applicable laws, rules,
3 regulations, and ordinances, whether federal, State, or
4 local; and
5 4. The applicant has agreed by official resolution to adopt
6 and place into effect a schedule of fees and charges or the
7 application of other sources of revenue which will provide
8 adequate funds for proper operation, maintenance, and
9 administration of the project and repayment of all
10 principal and interest on the loan.
- 11 (2) Assessment. The Department of Environment, Health, and Natural
12 Resources may require any applicant to file with its application an
13 assessment of the impact the project for which the funds are sought will
14 have upon meeting the facility needs of the area within which the
15 project is to be located.
- 16 (3) Hearing by the Department of Environment, Health, and Natural
17 Resources or the Local Government Commission. A public hearing
18 may be held by the Department of Environment, Health, and Natural
19 Resources or the Local Government Commission at any time on any
20 application. Public hearings may also be held by the Department of
21 Environment, Health, and Natural Resources in its discretion upon
22 written request from any citizen or taxpayer who is a resident of the
23 county or counties in which the project is to be located or a resident of
24 the local government unit that proposes to borrow moneys under this
25 act, if it appears that the public interest will be served by the hearing.
26 The written request shall set forth each objection to the proposed project
27 or other reason for requesting a hearing on the application and shall
28 contain the name and address of the persons submitting it. In deciding
29 whether to grant a request for a hearing on an application, the
30 Department of Environment, Health, and Natural Resources may
31 consider the application, the written objections to the proposed project,
32 and the facility needs and shall determine if the public interest will be
33 served by a hearing. The determination by the Department of
34 Environment, Health, and Natural Resources shall be conclusive, and all
35 written requests for a hearing shall be retained as a permanent part of
36 the records pertaining to the application.
- 37 (4) Petition for Vote. A petition, demanding that the question of whether to
38 enter into a loan agreement with the State under this act be submitted to
39 voters, may be filed with the clerk of the local government unit applying
40 for the loan within 15 days after the public hearing required by this
41 section. The petition's sufficiency shall be determined and a
42 referendum, if any, shall be conducted, according to the standards,
43 procedures, and limitations set out in G.S. 159-60 through G.S. 159-62.

1 (d) Priorities.

2 (1) Determination. Determination of priorities to be assigned each eligible
3 project shall be made semiannually by the Department of Environment,
4 Health, and Natural Resources during each fiscal year. Every eligible
5 project shall be considered by the Department of Environment, Health,
6 and Natural Resources with every other project eligible during this same
7 priority period.

8 (2) Priority Factors. All applications for loans under this act shall be
9 assigned a priority by the Department of Environment, Health, and
10 Natural Resources. Having a comprehensive land-use plan that meets
11 the requirements of G.S. 159G-10(e) shall be a priority factor, and
12 having a plan that meets the requirements of that subsection and exceeds
13 the minimum State standards for protection of the State's water
14 resources shall receive greater priority than having a plan that does not
15 exceed those standards. The Department of Environment, Health, and
16 Natural Resources shall establish other priority factors criteria by rule.

17 (3) Assignment of Priority. A written statement relative to each priority
18 assigned shall be prepared by the Department of Environment, Health,
19 and Natural Resources and shall be attached to the application. The
20 priority assigned shall be conclusive.

21 (4) Failure to Qualify. If an application does not qualify for a loan as of the
22 prior period in which the application was eligible for consideration by
23 reason of the priority assigned, the application shall be considered
24 during the next succeeding priority period upon request of the applicant.
25 If the application again fails to qualify for a loan during the second
26 priority period by reason of the priority assigned, the application shall
27 receive no further consideration. An applicant may file a new
28 application at any time and may amend any pending application to
29 include additional data or information.

30 (5) Withdrawal of Commitment. Failure of an applicant within one year
31 after the date of acceptance of the loan to arrange for necessary
32 financing of the proposed project or award of the contract of the
33 construction of the proposed project shall constitute sufficient cause for
34 withdrawal of the commitment. Prior to withdrawal of a commitment,
35 the Department of Environment, Health, and Natural Resources shall
36 give due consideration to any extenuating circumstances presented by
37 the applicant as reasons for failure to arrange necessary financing or to
38 award a contract, and the commitment may be extended for an
39 additional period of time if, in the judgment of the Department of
40 Environment, Health, and Natural Resources, the extension is justified.

41 (e) Disbursement. To be eligible to receive the loans provided for in this
42 section, a local government unit must arrange to borrow the amounts necessary pursuant
43 to rules adopted by the Local Government Commission. No funds shall be disbursed

1 until the Department of Environment, Health, and Natural Resources gives a certificate of
2 eligibility to the effect that the applicant meets all eligibility criteria and that all
3 procedural requirements of this act have been met. The maximum principal amount of a
4 loan shall be one hundred percent (100%) of the cost of any eligible project.

5 (f) Intercept. The governing body of a local government unit shall by
6 resolution authorize to be included in its loan agreement a provision authorizing the State
7 Treasurer, upon failure of the local government unit to make a scheduled repayment of
8 the loan, to withhold from the local government unit any State funds that would
9 otherwise be distributed to the local government unit in an amount sufficient to pay all
10 sums then due and payable to the State as a repayment of the loan. In such event,
11 notwithstanding any other provision of law, the State Treasurer is authorized to withhold
12 and apply such funds to the repayment of the loan, except that such funds shall not be
13 withheld if (i) before the execution of the loan agreement, such funds have been legally
14 pledged to secure special obligation bonds or other obligations of the local government
15 unit, or (ii) after the execution of the loan agreement, such funds are legally pledged to
16 secure special obligation bonds or other obligations of the local government unit as
17 authorized in this subsection. After the execution of a loan agreement, all or any portion
18 of the State funds specified in the loan agreement to be so withheld may be pledged to
19 secure special obligation bonds or other obligations of the local government unit only
20 with the prior written consent of the State Treasurer.

21 The State Treasurer shall notify the Secretary of Revenue and the State
22 Controller of the amount to be withheld from the local government unit, and the
23 Secretary of Revenue and the State Controller shall transfer to the State Treasurer the
24 amount so requested to be applied by the State Treasurer to the repayment of the loan.

25 (g) Inspection. Inspection of a project for which a loan has been made under
26 this act may be performed by qualified personnel of the Department of Environment,
27 Health, and Natural Resources or may be performed by qualified engineers registered in
28 this State approved by the Department of Environment, Health, and Natural Resources.
29 No person shall be approved to perform inspections who is an officer employed by the
30 local government unit to which the loan was made or who is an owner, officer, employer,
31 or agent of a contractor or subcontractor engaged in the construction of the project for
32 which the loan was made. For the purpose of payment of inspection fees, inspection
33 services shall be included in the term "cost" as used in this act.

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

39 (i) Federal Grants and Loans. In order to carry out the purposes of this act to
40 secure the greatest possible benefits to the citizens of this State of the funds appropriated,
41 the State Treasurer, the Local Government Commission, and the Department of
42 Environment, Health, and Natural Resources shall adopt rules and criteria, not

1 inconsistent with provisions of this act, as are necessary and appropriate to conform to
2 regulations for federal grants and loans for any of the purposes set forth in this act.

3 (j) Reports. The Department of Environment, Health, and Natural Resources
4 shall prepare and file each year on or before July 31 with the Joint Legislative
5 Commission on Governmental Operations a report for the preceding fiscal year
6 concerning the allocation and making of loans authorized by this act. The report shall set
7 forth for the preceding fiscal year:

- 8 (1) Itemized and total allocations of loans authorized and unallocated funds
9 for the loan program as of the end of the preceding fiscal year;
- 10 (2) Identification of each loan agreement entered into by the State during
11 the preceding fiscal year and the total amount of loans authorized by
12 such loan agreements;
- 13 (3) The amount disbursed to each local government unit pursuant to such
14 loan agreements during the preceding fiscal year and the total amount of
15 such disbursements;
- 16 (4) The loan repayments made by each local government unit pursuant to
17 such loan agreements and the total amount of such loan repayments
18 during the preceding fiscal year; and
- 19 (5) A summary for the five preceding years of the information required by
20 subdivisions (1) through (4) of this subsection.

21 The report shall be signed by the Secretary of Environment, Health, and Natural
22 Resources.

23 (k) Local Government Commission.

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

- 27 a. Any available source of revenues of the local government unit,
28 including revenues from benefitted facilities or systems, provided
29 that (i) the local government unit has not otherwise pledged the
30 revenues as security for, or contractually agreed to apply the
31 revenues to, the payment of any other obligations of the local
32 government unit, (ii) the use of the revenues is not otherwise
33 restricted by law, or (iii) the revenues are not derived from the
34 exercise of the local government unit's taxing power; or
- 35 b. Their faith and credit; or
- 36 c. Any combination of a. or b. above.

37 The faith and credit of a local government unit shall not be pledged
38 or be deemed to have been pledged unless the requirements of Article 4
39 of Chapter 159 of the General Statutes have been met. The State
40 Treasurer, with the assistance of the Local Government Commission,
41 shall develop and adopt appropriate debt instruments for use under this
42 act.

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

5 (3) The Local Government Commission shall review and approve proposed
6 loans to local government units under this act under the provisions of
7 Articles 4 and 5 of Chapter 159 of the General Statutes. The Local
8 Government Commission in considering the ability of a local
9 government unit to repay a loan may regard as a source of revenue for
10 repayment of a loan revenue sources that may not be available other
11 than on an annual discretionary basis and that may not be subject to a
12 pledge or agreement to apply. Loans under this act shall be outstanding
13 debts for the purposes of Article 10 of Chapter 159 of the General
14 Statutes.

15 (4) The State Treasurer shall annually certify to the General Assembly the
16 financial condition of the loan program and identify existing
17 delinquencies.

18 Section 11. Minority business participation. The goals set by G.S. 143-128 for
19 participation in projects by minority businesses apply to projects funded by the proceeds
20 of bonds or notes issued under this act. The Department of Environment, Health, and
21 Natural Resources shall monitor compliance with this requirement and shall report to the
22 General Assembly by January 1 of each year on the participation by minority businesses
23 in these projects.

24 Section 12. Interpretation of act. (a) Additional Method. The foregoing sections of
25 this act shall be deemed to provide an additional and alternative method for the doing of
26 the things authorized thereby and shall be regarded as supplemental and additional to
27 powers conferred by other laws, and shall not be regarded as in derogation of any powers
28 now existing.

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

32 (c) Liberal Construction. This act, being necessary for the health and welfare of
33 the people of the State, shall be liberally construed to effect the purposes thereof.

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

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

41 Section 13. Authorize regional planning loans and grants. G.S. 159G-3(4)
42 reads as rewritten:

1 "(4) 'Construction costs' means the actual costs of planning, designing and
 2 constructing any project for which a revolving loan or grant is made
 3 under this Chapter including planning; environmental assessment;
 4 wastewater system analysis, evaluation and rehabilitation; engineering;
 5 legal, fiscal, administrative and contingency costs for water supply
 6 systems, wastewater collection systems, wastewater treatment works
 7 and any extensions, improvements, remodeling, additions, or alterations
 8 to existing systems. Construction costs may include excess or reserve
 9 capacity costs, attributable to no more than 20-year projected domestic
 10 growth, plus ten percent (10%) unspecified industrial growth. In
 11 addition, construction costs shall include any fees payable to the
 12 Environmental Management Commission or the Division of
 13 Environmental Health for review of applications and grant of permits,
 14 and fees for inspections under G.S. 159G-14. Construction costs may
 15 also include the costs for purchase or acquisition of real property. The
 16 term may also include the costs for planning and designing a regional
 17 project or small town project. Funds for planning and designing a
 18 regional project or small town project may be advanced prior to
 19 construction of the project and may be paid even though the project is
 20 never actually constructed. A small town is defined as a municipality
 21 with a population of 1,000 or less, based on the most recent annual
 22 estimate of population certified by the State Planning Officer."

23 Section 14. G.S. 159G-4(b) reads as rewritten:

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

29 Wastewater Accounts

| | | |
|--|-------------------|---------------|
| 30 General Wastewater Revolving | | |
| 31 Loan Account | 39.00% | <u>38.00%</u> |
| 32 Emergency Wastewater Revolving | | |
| 33 Loan Account | 10.00% | <u>9.00%</u> |
| 34 High-Unit Cost Wastewater | | |
| 35 Account | 20.00% | <u>22.00%</u> |

36 Water Supply Accounts

| | | |
|--|-------------------|---------------|
| 37 General Water Supply | | |
| 38 Revolving Loan Account | 21.00% | <u>20.00%</u> |
| 39 High-Unit Cost Water Supply | | |
| 40 Account | 5.00% | <u>7.00%</u> |
| 41 Emergency Water Supply Revolving | | |
| 42 Loan Account | 5.00% | <u>4.00%</u> |

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

1 **"§ 159G-6. Distribution of funds.**

2 (a) Revolving loans and grants.

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

9 (2) The maximum principal amount of a revolving loan or a grant may be
10 one hundred percent (100%) of the nonfederal share of the construction
11 costs of any eligible project. ~~The maximum principal amount of revolving~~
12 ~~loans made to any one local government unit during any fiscal year shall be~~
13 ~~three million dollars (\$3,000,000). The maximum principal amount of grants~~
14 ~~made to any one local government unit during any fiscal year shall be one~~
15 ~~million dollars (\$1,000,000). The Department may establish maximum~~
16 ~~principal amounts for revolving loans and for grants made to the same~~
17 ~~local government unit in a fiscal year.~~

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

29 (b) Wastewater Accounts. – The sums allocated in G.S. 159G-4 and accruing to
30 the various Wastewater Accounts in each fiscal year shall be used to make revolving
31 loans and grants to local government units as provided below. The Department of
32 Environment, Health, and Natural Resources shall disburse no funds from the
33 Wastewater Accounts except upon receipt of written approval of the disbursement from
34 the Environmental Management Commission.

35 (1) General Wastewater Revolving Loan and Grant Account. – The funds in
36 the General Wastewater Revolving Loan and Grant Account shall be
37 used exclusively for the purpose of providing for revolving construction
38 loans or grants in connection with approved wastewater treatment work
39 or wastewater collection system projects.

40 (2) High-Unit Cost Wastewater Account. – The funds in the High-Unit Cost
41 Wastewater Account shall be available for grants to applicants for high-
42 unit cost wastewater projects. Eligibility of an applicant for such a grant
43 shall be determined by comparing estimated average household user

1 fees for water and sewer service, for debt service and operation and
2 maintenance costs, to one and one-half percent (1.5%) of the median
3 household income in the ~~county~~ local government unit in which the
4 project is located. The projects which would require estimated average
5 household water and sewer user fees greater than one and one-half
6 percent (1.5%) of the median household income are defined as high-unit
7 cost wastewater projects and will be eligible for a grant equal to the
8 excess cost, subject to the limitations in ~~subsection~~ subdivision (a)(2) of
9 this section.

- 10 (3) Emergency Wastewater Revolving Loan Account. – The funds in the
11 Emergency Wastewater Revolving Loan Account shall be available for
12 revolving emergency loans to applicants in the event the Environmental
13 Management Commission certifies that a serious public health hazard,
14 related to the inadequacy of existing wastewater facilities, is present or
15 imminent in a community.

16 (c) Water Supply Accounts. – The sums allocated in G.S. 159G-4 and accruing to
17 the various Water Supply Accounts in each fiscal year shall be used to provide revolving
18 loans and grants to local government units as provided below. The Department of
19 Environment, Health, and Natural Resources shall disburse no funds from the Water
20 Supply Accounts except upon receipt of written approval of the disbursement from the
21 Division of Environmental Health.

- 22 (1) General Water Supply Revolving Loan and Grant Account. – The funds
23 in the General Water Supply Revolving Loan and Grant Account shall
24 be used exclusively for the purpose of providing for revolving
25 construction loans and grants in connection with water supply systems
26 generally and not upon a county allotment basis.

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

- 31 (3) Emergency Water Supply Revolving Loan Account. – The funds in the
32 Emergency Water Supply Revolving Loan Account shall be available
33 for revolving emergency loans to applicants in the event the Division of
34 Environmental Health certifies that a serious public health hazard,
35 related to the water supply system, is present or imminent in a
36 community.

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

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

42 Section 16. G.S. 159G-10 reads as rewritten:

43 "**§ 159G-10. Priorities.**

1 (a) Determination. – Determination of priorities to be assigned each eligible
2 application shall be made semiannually by each receiving agency during each fiscal year.
3 Every eligible application filed under G.S. 159G-5(c), G.S. 159G-6(b)(1) or G.S. 159G-
4 6(c)(1) shall be considered by the receiving agency with every other application filed
5 under G.S. 159G-5(c), G.S. 159G-6(b)(1) or G.S. 159G-6(c)(1), respectively, and eligible
6 for consideration during the same priority period, to determine the priority to be assigned
7 to each application. The same procedure shall apply to every eligible application filed
8 under G.S. 159G-6(b)(3) and G.S. 159G-6(c)(3) of this Chapter. Any application which
9 does not contain the information required by this Chapter or regulations adopted by the
10 receiving agency(s) shall not be deemed received until such information is furnished by
11 the applicant to the receiving agency.

12 (a1) (See note) Expired.

13 (b) Priority Factors. – All applications for revolving loans or grants under this
14 Chapter eligible for consideration during each priority period shall be assigned a priority
15 for such funds by the receiving agency. The priority factors ~~shall to be used~~ are listed
16 below; many of these factors are similar to those developed under the North Carolina
17 Clean Water Bond Act of 1977, as provided in this subsection. 1977:

18 (1) General Criteria. – The existence of a comprehensive land-use plan that
19 meets the requirements of subsection (e) of this section is a general
20 criterion for determining which local government units will receive a
21 loan or grant. A comprehensive land-use plan that meets the
22 requirements of that subsection and exceeds the minimum State
23 standards for protection of the State's water resources shall receive more
24 points than a plan that does not exceed those standards.

25 The general criteria provided in 1 NCAC 22.0401 through .0403 on
26 January 1, 1987, shall also apply, except that 1 NCAC 22.0401(c) shall
27 apply only to State funds appropriated to match available federal funds.

28 (2) Wastewater Treatment Work Projects. – The priority criteria provided in
29 1 NCAC 22.0501 through .0506 on January 1, 1987, shall apply to
30 applications for wastewater treatment work projects, except that 1
31 NCAC 22.0503 shall not apply.

32 (3) Wastewater Collection System Projects. – The priority criteria provided
33 in 1 NCAC 22.0601 through .0606 on January 1, 1987, shall apply to
34 applications for wastewater collection system projects, except that 1
35 NCAC 22.0601(2)(a) and (3), and 1 NCAC 22.0605(2), (3) and (4) shall
36 not apply.

37 (4) Water Supply System Projects. – The priority criteria provided in 1
38 NCAC 22.0701 through .0704 on January 1, 1987, shall apply to
39 applications for water supply system projects.

40 (5) The total number of points available in the respective categories shall be
41 deemed adjusted in accordance with the provisions of subdivisions (1)
42 through (4) of this subsection.

1 (c) Assignment of Priority. – A written statement relative to each priority assigned
2 shall be prepared by the receiving agency and shall be attached to the application. The
3 priority assigned shall be conclusive.

4 (d) Failure to Qualify. – Any application filed under G.S. 159G-5(c), G.S. 159G-
5 6(b) or G.S. 159G-6(c) that does not qualify for a revolving loan or grant as of the
6 priority period in which the application was eligible for consideration by reason of the
7 priority assigned the application shall be considered for a revolving loan or grant during
8 the next succeeding priority period upon request of the applicant. If such application
9 should again fail to qualify for a revolving loan or grant during the second priority period
10 by reason of the priority assigned, the application shall receive no further consideration.
11 An applicant may file a new application at any time, and may amend any pending
12 application to include additional data or information.

13 (e) Land-Use Plan. – Local units of government are encouraged to adopt
14 comprehensive land-use plans. To qualify as a comprehensive land-use plan, a plan must
15 meet all of the following requirements:

16 (1) Be adopted by the governing body of the local government unit covered
17 by the plan.

18 (2) Promote economically and environmentally sustainable development.

19 (3) Establish verifiable goals to be met through compliance with the plan.

20 (4) Be approved by the Office of State Planning."

21 Section 17. Effective date. Sections 13 through 16 of this act become
22 effective only if the voters approve the issuance of the Clean Water Bonds authorized by
23 this act in the election required by Section 7 of this act. The remaining sections of this
24 act are effective when the act becomes law.