

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2011

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SENATE DRS35066-LH-75 (02/04)

Short Title: Water Infrastructure Authority/Water Grants.

(Public)

Sponsors: Senator Hartsell.

Referred to:

A BILL TO BE ENTITLED

AN ACT TO ESTABLISH THE NORTH CAROLINA WATER AND WASTEWATER INFRASTRUCTURE AUTHORITY TO ADMINISTER THE STATE'S FUNDING FOR WATER AND WASTEWATER INFRASTRUCTURE PROJECTS, TO TRANSFER THE CONSTRUCTION GRANTS AND LOANS SECTION OF THE DIVISION OF WATER QUALITY AND THE FINANCIAL SERVICES UNIT IN THE PUBLIC WATER SUPPLY SECTION OF THE DIVISION OF ENVIRONMENTAL HEALTH FROM THE DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES TO THE AUTHORITY, TO PROVIDE THAT THE CLEAN WATER MANAGEMENT TRUST FUND SHALL NOT FUND WASTEWATER PROJECTS, TO TRANSFER ANNUALLY THE SUM OF TWENTY-FIVE MILLION DOLLARS FROM THE CLEAN WATER MANAGEMENT TRUST FUND TO THE WATER INFRASTRUCTURE FUND TO PROVIDE GRANT AND LOAN FUNDS FOR WATER AND WASTEWATER INFRASTRUCTURE PROJECTS, TO DIRECT THE AUTHORITY AND THE NORTH CAROLINA RURAL ECONOMIC DEVELOPMENT CENTER TO DEVELOP A TRANSITION PLAN TO MOVE THE WATER AND WASTEWATER PROGRAMS FROM THE NORTH CAROLINA RURAL ECONOMIC DEVELOPMENT CENTER TO THE AUTHORITY, AND TO MAKE CONFORMING STATUTORY CHANGES.

The General Assembly of North Carolina enacts:

**SECTION 1.** Chapter 159G of the General Statutes is amended by adding a new Article to read:

"Article 5.

"North Carolina Water and Wastewater Infrastructure Authority.

**"§ 159G-70. Definitions.**

The following definitions apply in this Article:

- (1) Authority. – The North Carolina Water and Wastewater Infrastructure Authority established by G.S. 159G-71.
- (2) Commission. – State Water Infrastructure Commission.
- (3) Strategic plan. – The statewide strategic plan for the State's water and wastewater infrastructure developed by the State Water Infrastructure Commission.

**"§ 159G-71. North Carolina Water and Wastewater Infrastructure Authority.**

(a) Established. – The North Carolina Water and Wastewater Infrastructure Authority is established as an independent authority. The Authority is located in the Department of Environment and Natural Resources for administrative purposes.



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1       **(b) Membership.** – The Authority shall consist of 12 members to be appointed as  
2 follows:

3           **(1)**     Four members appointed by the Governor.

4           **(2)**     Four members appointed by the President Pro Tempore of the Senate.

5           **(3)**     Four members appointed by the Speaker of the House of Representatives.

6       **(c) Initial Appointments; Term Limits.** – To provide for a staggered membership, two  
7 of the members initially appointed pursuant to subdivisions (b)(1), (b)(2), and (b)(3) of this  
8 section shall serve two-year terms ending on June 30, 2014. When appointing the initial  
9 members, the Governor, President Pro Tempore of the Senate, and Speaker of the House of  
10 Representatives shall designate which initial members shall serve two-year terms and which  
11 shall serve four-year terms.

12       **(d) Terms.** – Except as provided for the initial members under subsection (c) of this  
13 section, members shall serve four-year terms beginning July 1, 2012. No member shall serve  
14 more than two full consecutive four-year terms or a total of 10 years. Members may continue to  
15 serve beyond their terms until their successors are duly appointed, but any holdover shall not  
16 affect the expiration date of the succeeding term. A member may be removed from the  
17 Authority for cause by the official that appointed the member.

18       **(e) Qualifications.** – The office of Authority member is declared to be an office that  
19 may be held concurrently with any other executive or appointive office, under the authority of  
20 Section 9 of Article VI of the North Carolina Constitution. Persons shall be appointed to the  
21 Authority based on their knowledge and expertise of funding and construction of water and  
22 wastewater infrastructure.

23       **(f) Chair.** – The Governor shall appoint the initial chair of the Authority. The chair  
24 appointed by the Governor shall call the first meeting, at which the members shall elect a chair.  
25 The chair shall serve a term of one year. The Authority shall elect a chair annually.

26       **(g) Meetings.** – The Authority shall meet at least four times a year and may meet as  
27 often as needed.

28       **(h) Quorum.** – A majority of the membership of the Authority constitutes a quorum for  
29 the transaction of business.

30       **(i) Vacancies.** – A vacancy in the Authority or as chair of the Authority resulting from  
31 the resignation of a member or otherwise is filled in the same manner in which the original  
32 appointment was made. The term of an appointment to fill a vacancy is for the balance of the  
33 unexpired term.

34       **(j) Compensation.** – Each member of the Authority shall receive per diem and  
35 necessary travel and subsistence expenses in accordance with the provisions of G.S. 138-5. Per  
36 diem, subsistence, and travel expenses of the Authority members shall be paid from funds made  
37 available to the Authority through grants, appropriations, or any other sources.

38       **(k) Meeting Facilities.** – The Secretary of Environment and Natural Resources shall  
39 provide meeting facilities for the Authority and its staff as requested by the chair.

40 **"§ 159G-72. Authority: purpose; duties.**

41       **(a) Purpose.** – The purpose of the Authority is to administer the State's funding for  
42 water and wastewater infrastructure projects.

43       **(b) Duties.** – The Authority shall have the following duties:

44           **(1)**     To award grants and loans for water and wastewater systems and to system  
45 operators using a single application and project award process while  
46 maintaining distinct funding priorities (i.e. public health, pollution control,  
47 economic development).

48           **(2)**     To implement and maintain the strategic plan for the State's water and  
49 wastewater infrastructure developed by the Commission after that plan is  
50 approved by the General Assembly.

- 1           (3)    To develop and track performance measures to indicate how the Authority is  
2           meeting the goals established by the strategic plan.
- 3           (4)    To maintain the baseline inventory of water and wastewater infrastructure in  
4           North Carolina developed by the Commission.
- 5           (5)    To develop and maintain an integrated database designed to provide ad hoc  
6           reporting capabilities based on performance measures identified by the  
7           strategic plan.
- 8           (6)    To conduct a detailed needs assessment to determine water and wastewater  
9           infrastructure funding needs using the information provided by the  
10          Commission.

11 **"§ 159G-73. Authority: reporting requirement.**

12       The chair of the Authority shall report each year by January 1 to the Joint Legislative  
13       Commission on Governmental Operations, the Environmental Review Commission, the  
14       Subcommittees on Natural and Economic Resources of the House of Representatives and  
15       Senate Appropriations Committees, and the Fiscal Research Division of the General Assembly  
16       regarding the implementation of its duties under G.S. 159G-72. The report shall include an  
17       update on the initial implementation of the strategic plan and, after implementation, upon the  
18       progress maintaining the strategic plan. The report shall also include a list of the projects  
19       awarded grants or loans, a description of the project, the amount of the grant or loan awarded  
20       for the project, the total cost of the project, and shall incorporate any additional information  
21       outlined in G.S. 159G-26(b) that is available and appropriate for inclusion in the report.

22 **"§ 159G-74. Authority: Executive Director and staff.**

23       The Authority, as soon as practicable after its organization, shall select and appoint a  
24       competent person in accordance with this section as Executive Director of the Authority. The  
25       Executive Director shall be charged with the supervision of all activities under the jurisdiction  
26       of the Authority and shall serve as the chief administrative officer of the Authority. Subject to  
27       the approval of the Authority and the Director of the Budget, the Executive Director may  
28       employ such clerical and other assistants as may be deemed necessary.

29       The person selected as Executive Director shall have had training and experience in funding  
30       and construction of water and wastewater infrastructure. The salary of the Executive Director  
31       shall be fixed by the Authority, and the Executive Director shall be allowed travel and  
32       subsistence expenses in accordance with G.S. 138-6. The Executive Director's salary and  
33       expenses shall be paid from funds made available to the Authority through grants,  
34       appropriations, or any other sources. The term of office of the Executive Director shall be at the  
35       pleasure of the Authority.

36 **"§ 159G-75. Cooperation among State agencies and other entities funding State strategic**  
37       **water plan.**

38       Any State agency or other entity that receives State or federal funds for the purpose of  
39       funding State water or wastewater infrastructure shall cooperate with the Authority in using and  
40       disbursing those funds pursuant to the strategic plan. The Department of Commerce shall notify  
41       the Authority of grants and loan guarantees that it awards pursuant to G.S. 143B-431(d) for  
42       water and wastewater infrastructure under the Community Development Block Grant program  
43       and of funds provided for water and wastewater infrastructure projects from the Industrial  
44       Development Fund established in G.S. 143B-437.01. The Department of Commerce shall  
45       provide information regarding those grants, loan guarantees, and projects as requested by the  
46       Authority and shall cooperate with the Authority to provide that those funds are used and  
47       disbursed pursuant to the strategic plan."

48           **SECTION 2.** G.S. 113A-252 reads as rewritten:

49 **"§ 113A-252. Definitions.**

50       The following definitions apply in this Article:

- 1 (1) Council. – The advisory council for the Clean Water Management Trust  
2 Fund.
- 3 (2) Economically distressed local government unit. – An economically  
4 distressed county, as defined in G.S. 143B-437.01, or a local government  
5 unit located in that county.
- 6 (3) Fund. – The Clean Water Management Trust Fund created pursuant to this  
7 Article.
- 8 (4) Land. – Real property and any interest in, easement in, or restriction on real  
9 property.
- 10 (4a) Local government unit. – Defined in G.S. 159G-20.
- 11 (4b) Stormwater quality project. – Defined in G.S. 159G-20.
- 12 (5) Trustees. – The trustees of the Clean Water Management Trust Fund.
- 13 ~~(6) Wastewater collection system. – Defined in G.S. 159G-20.~~
- 14 ~~(7) Wastewater treatment works. – Defined in G.S. 159G-20."~~

15 **SECTION 3.** G.S. 113A-253(c) reads as rewritten:

16 "(c) Fund Purposes. – Moneys from the Fund are appropriated annually to finance  
17 projects to clean up or prevent surface water pollution in accordance with this Article. Revenue  
18 in the Fund may be used for any of the following purposes:

- 19 (1) To acquire land for riparian buffers for the purposes of providing  
20 environmental protection for surface waters and urban drinking water  
21 supplies and establishing a network of riparian greenways for environmental,  
22 educational, and recreational uses and to retire debt incurred for this purpose  
23 under Article 9 of Chapter 142 of the General Statutes.
- 24 (2) To acquire conservation easements or other interests in real property for the  
25 purpose of protecting and conserving surface waters and urban drinking  
26 water supplies and to retire debt incurred for this purpose under Article 9 of  
27 Chapter 142 of the General Statutes.
- 28 (3) To coordinate with other public programs involved with lands adjoining  
29 water bodies to gain the most public benefit while protecting and improving  
30 water quality and to retire debt incurred for this purpose under Article 9 of  
31 Chapter 142 of the General Statutes.
- 32 (4) To restore previously degraded lands to reestablish their ability to protect  
33 water quality and to retire debt incurred for this purpose under Article 9 of  
34 Chapter 142 of the General Statutes.
- 35 ~~(5) To repair failing wastewater collection systems and wastewater treatment  
36 works if the repair is a reasonable remedy for resolving an existing waste  
37 treatment problem and the repair is not for the purpose of expanding the  
38 system to accommodate future anticipated growth of a community.~~
- 39 ~~(6) To repair and eliminate failing septic tank systems, to eliminate illegal  
40 drainage connections, and to expand a wastewater collection system or  
41 wastewater treatment works if the expansion eliminates failing septic tank  
42 systems or illegal drainage connections.~~
- 43 (7) To finance stormwater quality projects.
- 44 (8) To facilitate planning that targets reductions in surface water pollution.
- 45 (8a) To finance innovative efforts, including pilot projects, to improve  
46 stormwater management, to reduce pollutants entering the State's waterways,  
47 to improve water quality, and to research alternative solutions to the State's  
48 water quality problems.
- 49 (9) To fund operating expenses of the Board of Trustees and its staff."

50 **SECTION 4.** G.S. 113A-253.1(a) reads as rewritten:

1       "(a) The General Assembly finds that, due to the critical need in this State to clean up  
2 pollution in the State's surface waters and to protect and conserve those waters that are not yet  
3 polluted, it is imperative that the State provide a minimum of one hundred million dollars  
4 (\$100,000,000) each calendar year to the Clean Water Management Trust Fund; therefore,  
5 there is annually appropriated from the General Fund to the Clean Water Management Trust  
6 Fund the sum of one hundred million dollars (\$100,000,000). Of the funds appropriated by this  
7 section, the sum of twenty-five million dollars (\$25,000,000) shall annually be transferred to  
8 the Water Infrastructure Fund established in G.S. 159G-22 to be used in accordance with  
9 Chapter 159G of the General Statutes."

10       **SECTION 5.** G.S. 113A-254 reads as rewritten:

11       "**§ 113A-254. Grant requirements.**

12       (a) Eligible Applicants. – Any of the following are eligible to apply for a grant from the  
13 Fund for the purpose of protecting and enhancing water quality:

- 14           (1) A State agency.
- 15           (2) A local government unit.
- 16           (3) A nonprofit corporation whose primary purpose is the conservation,  
17 preservation, and restoration of our State's environmental and natural  
18 resources.

19       (a1) Criteria. – The criteria developed by the Trustees under G.S. 113A-256 apply to  
20 grants made under this Article. The common criteria for water projects set in G.S. 159G-23 and  
21 the criteria set out in this section also apply to ~~wastewater collection system projects,~~  
22 ~~wastewater treatment works projects, and stormwater quality projects. An application for a~~  
23 ~~wastewater collection system project or a wastewater treatment works project that serves an~~  
24 ~~economically distressed local government unit has priority.~~

25       (b) Matching Requirement. – The Board of Trustees shall establish matching  
26 requirements for grants awarded under this Article. This requirement may be satisfied by the  
27 donation of land to a public or private nonprofit conservation organization as approved by the  
28 Board of Trustees. The Board of Trustees may also waive the requirement to match a grant  
29 pursuant to guidelines adopted by the Board of Trustees.

30       (c) Restriction. – No grant shall be awarded under this article to satisfy compensatory  
31 mitigation requirements under 33 USC § 1344 or G.S. 143-214.11.

32       ~~(d) Wastewater Limits. — A wastewater collection system project or a wastewater~~  
33 ~~treatment works project is eligible for a grant under this Article only if it is a high unit cost~~  
34 ~~project, as defined in G.S. 159G-20. A planning grant or a technical assistance grant for a~~  
35 ~~regional wastewater collection system or a regional wastewater treatment works is not subject~~  
36 ~~to the high unit cost threshold. A grant made under this Article for a wastewater collection~~  
37 ~~system project or a wastewater treatment works project is subject to the cost limits and~~  
38 ~~recipient limits set in G.S. 159G-36 for a grant awarded from the Wastewater Reserve.~~

39       (e) Stormwater Limits. – The amount of a grant awarded under this Article for a  
40 stormwater quality project may not exceed the construction costs of the project. The total  
41 amount of grants awarded under this Article to the same recipient for stormwater quality  
42 projects for a fiscal year may not exceed the limit set in G.S. 159G-36(c)(1) for grants to the  
43 same recipient from the Wastewater Reserve.

44       (f) Withdrawal. – An award of a grant under this Article is withdrawn if the grant  
45 recipient fails to enter into a construction contract for the project within one year after the date  
46 of the award, unless the Trustees find that the applicant has good cause for the failure. If the  
47 Trustees find good cause for a recipient's failure, the Trustees must set a date by which the  
48 recipient must take action or forfeit the grant."

49       **SECTION 6.** The Construction Grants and Loans Section of the Division of Water  
50 Quality and the Financial Services Unit in the Public Water Supply Section of the Division of  
51 Environmental Health are transferred from the Department of Environment and Natural

1 Resources to the North Carolina Water and Wastewater Infrastructure Authority established in  
2 G.S. 159G-71. This transfer shall have all of the elements of a Type I transfer, as defined in  
3 G.S. 143A-6.

4 **SECTION 7.** The North Carolina Water and Wastewater Infrastructure Authority  
5 and the North Carolina Rural Economic Development Center shall cooperatively develop a  
6 transition plan to transfer the Clean Water Partners Program and the water and wastewater  
7 portion of the Economic Infrastructure Program that is currently operated by the North Carolina  
8 Rural Economic Development Center and the unencumbered funds for those programs to the  
9 North Carolina Water and Wastewater Infrastructure Authority. The plan shall provide for the  
10 transition to be complete by July 1, 2012, and shall also provide for the continued monitoring  
11 and funding of projects that have been awarded grants from the North Carolina Rural Economic  
12 Development Center before July 1, 2012.

13 **SECTION 8.** G.S. 159G-20 reads as rewritten:

14 "**§ 159G-20. Definitions.**

15 The following definitions apply in this Chapter:

16 (1) Asset management plan. – The strategic and systematic application of  
17 management practices applied to the infrastructure assets of a local  
18 government unit in order to minimize the total costs of acquiring, operating,  
19 maintaining, improving, and replacing the assets while at the same time  
20 maximizing the efficiency, reliability, and value of the assets.

21 (1a) Authority. – North Carolina Water and Wastewater Infrastructure Authority  
22 established under G.S. 159G-71.

23 ~~(1a)~~(1b) Construction costs. – The costs of planning, designing, and constructing  
24 a project for which a loan or grant is available under this Chapter. The term  
25 includes the following:

- 26 a. Excess or reserve capacity costs attributable to no more than 20-year  
27 projected domestic growth plus ten percent (10%) unspecified  
28 industrial growth.
- 29 b. Legal, fiscal, administrative, and contingency costs.
- 30 c. The fee imposed under G.S. 159G-24 to obtain a loan or grant for a  
31 project.
- 32 d. A fee payable to the Department for a permit to implement a project  
33 for which a loan or grant is obtained.
- 34 e. The cost to acquire real property or an interest in real property.

35 (2) CWSRF. – The Clean Water State Revolving Fund established in  
36 G.S. 159G-22 as an account in the Water Infrastructure Fund.

37 (3) Department. – The Department of Environment and Natural Resources.

38 ~~(4) Division of Environmental Health. – The Division of Environmental Health~~  
39 ~~of the Department of Environment and Natural Resources.~~

40 ~~(5) Division of Water Quality. – The Division of Water Quality of the~~  
41 ~~Department of Environment and Natural Resources.~~

42 (6) Drinking Water Reserve. – The Drinking Water Reserve established in  
43 G.S. 159G-22 as an account in the Water Infrastructure Fund.

44 (7) DWSRF. – The Drinking Water State Revolving Fund established in  
45 G.S. 159G-22 as an account in the Water Infrastructure Fund.

46 (8) Grant. – A sum of money given to an applicant without any obligation on the  
47 part of the applicant to repay the sum.

48 (9) High-unit-cost project. – A project that results in an estimated average  
49 household user fee for water and sewer service in the area served by the  
50 project in excess of the high-unit-cost threshold. The average household user  
51 fee is calculated for a continuous 12-month period.

- 1 (10) High-unit-cost threshold. – Either of the following amounts determined on  
2 the basis of data from the most recent federal decennial census and updated  
3 by the U.S. Department of Housing and Urban Development's annual  
4 estimated income adjustment factors:  
5 a. One and one-half percent (1.5%) of the median household income in  
6 an area that receives both water and sewer service.  
7 b. Three-fourths of one percent ( $\frac{3}{4}\%$ ) of the median household income  
8 in an area that receives only water service or only sewer service.
- 9 (11) Loan. – A sum of money loaned to an applicant with an obligation on the  
10 part of the applicant to repay the sum.
- 11 (12) Local Government Commission. – The Local Government Commission of  
12 the Department of the State Treasurer, established in G.S. 159-3.
- 13 (13) Local government unit. – Any of the following:  
14 a. A city as defined in G.S. 160A-1.  
15 b. A county.  
16 c. A consolidated city-county as defined in G.S. 160B-2.  
17 d. A county water and sewer district created pursuant to Article 6 of  
18 Chapter 162A of the General Statutes.  
19 e. A metropolitan sewerage district or a metropolitan water district  
20 created pursuant to Article 4 of Chapter 162A of the General  
21 Statutes.  
22 f. A water and sewer authority created under Article 1 of Chapter 162A  
23 of the General Statutes.  
24 g. A sanitary district created pursuant to Part 2 of Article 2 of Chapter  
25 130A of the General Statutes.  
26 h. A joint agency created pursuant to Part 1 of Article 20 of Chapter  
27 160A of the General Statutes.  
28 i. A joint agency that was created by agreement between two cities and  
29 towns to operate an airport pursuant to G.S. 63-56 and that provided  
30 drinking water and wastewater services off the airport premises  
31 before 1 January 1995.
- 32 (14) Nonprofit water corporation. – A nonprofit corporation that is incorporated  
33 under Chapter 55A of the General Statutes solely for the purpose of  
34 providing drinking water or wastewater services and is an eligible applicant  
35 for a federal loan or grant from the Rural Utility Services Division, U.S.  
36 Department of Agriculture.
- 37 (15) Public water system. – Defined in G.S. 130A-313.
- 38 (16) Reserved.
- 39 (17) Reserved.
- 40 ~~(18) Secretary. – The Secretary of Environment and Natural Resources.~~
- 41 (19) State. – The State of North Carolina.
- 42 (20) Stormwater quality project. – A project whose primary purpose is to prevent  
43 or remove pollution from stormwater rather than collect, store, or convey  
44 stormwater for drainage or flood control purposes.
- 45 (21) Targeted interest rate project. – Either of the following types of projects:  
46 a. A high-unit-cost project that is awarded a loan.  
47 b. A project that is awarded a loan from the CWSRF or the DWSRF  
48 and is in a category for which federal law encourages a special focus.
- 49 (22) Treasurer. – The Treasurer of the State elected pursuant to Article III,  
50 Section 7, of the Constitution.

- 1 (23) Wastewater collection system. – A unified system of pipes, conduits,  
2 pumping stations, force mains, and appurtenances for collecting and  
3 transmitting water-carried human wastes and other wastewater from  
4 residences, industrial establishments, or any other buildings.
- 5 (24) Wastewater Reserve. – The Wastewater Reserve established in  
6 G.S. 159G-22 as an account in the Water Infrastructure Fund.
- 7 (25) Wastewater system. – A wastewater collection system, wastewater treatment  
8 works, stormwater quality project, or nonpoint source pollution project.
- 9 (26) Wastewater treatment works. – The various facilities and devices used in the  
10 treatment of sewage, industrial waste, or other wastes of a liquid nature,  
11 including the necessary interceptor sewers, outfall sewers, nutrient removal  
12 equipment, pumping equipment, power and other equipment, and their  
13 appurtenances.
- 14 (27) Water Infrastructure Fund. – The fund established in G.S. 159G-22."

15 **SECTION 9.** G.S. 159G-21 reads as rewritten:

16 **"§ 159G-21. Revenue for water projects.**

17 This Chapter governs the use of the following revenue:

- 18 (1) Revenue appropriated to the Department for the Authority to use to match  
19 federal funds received for loans and grants for wastewater and drinking  
20 water projects and revenue received by the ~~Department~~ Authority from the  
21 repayment of loans made with the use of the federal funds.
- 22 (2) Revenue appropriated to the Department for the Authority to use to provide  
23 a source of State funds to make loans and grants for wastewater and drinking  
24 water projects and revenue received by the ~~Department~~ Authority from the  
25 repayment of loans made with the use of these funds."

26 **SECTION 10.** G.S. 159G-22 reads as rewritten:

27 **"§ 159G-22. Water Infrastructure Fund.**

28 (a) Fund Established. – The Water Infrastructure Fund is established as a special  
29 revenue fund. The Fund is comprised of the accounts set out in this section. The Fund provides  
30 revenue through its accounts for loans and grants as provided in this Chapter to meet the water  
31 infrastructure needs of the State. The Treasurer is responsible for distributing and investing all  
32 revenue received by the Fund. Interest and other investment income earned by the Fund accrues  
33 to it and must be allocated to the account to which the income is attributable. Accounts to  
34 which federal funds are credited must be kept separate from accounts that do not receive federal  
35 funds. A payment of the principal of or interest on a loan made from an account of the Fund  
36 must be credited to the account from which the loan was made.

37 (b) CWSRF. – The Clean Water State Revolving Fund is established as an account  
38 within the Water Infrastructure Fund. The account receives federal funds for wastewater  
39 projects and the State funds required to match the federal funds. The account is established  
40 under and must be managed in accordance with Title VI of the Federal Water Quality Act of  
41 1987, Pub. L. 100-4, to achieve the purposes of that act and the Federal Water Pollution  
42 Control Act of 1972, 33 U.S.C. §§ 1251 through 1387. The account must comply with these  
43 federal acts and the federal regulations adopted to implement the acts. Revenue credited to the  
44 account is available in perpetuity and must be used only to provide construction loans and other  
45 assistance allowed under federal law. Grants are available from this account only to the extent  
46 allowed under federal law.

47 (c) DWSRF. – The Drinking Water State Revolving Fund is established as an account  
48 within the Water Infrastructure Fund. The account receives federal funds for public water  
49 systems and the State funds required to match the federal funds. The account is established  
50 under and must be managed in accordance with section 130 of Title 1 of the federal Safe  
51 Drinking Water Act of 1996 as amended, 42 U.S.C. § 300J-12, to achieve the purposes of that



1 act. The account must comply with that act and the federal regulations adopted to implement  
2 the act. Revenue credited to the account is available in perpetuity and must be used only to  
3 provide construction loans and other assistance allowed under federal law. Grants are available  
4 from this account only to the extent allowed under federal law.

5 (d) Wastewater Reserve. – The Wastewater Reserve is established as an account within  
6 the Water Infrastructure Fund. The account is established to receive State funds that are to be  
7 used for loans and grants for wastewater systems. Revenue credited to the Reserve is neither  
8 received from the federal government nor provided as a match for federal funds.

9 (e) Wastewater Accounts. – ~~The Department Authority~~ is directed to establish accounts  
10 within the Wastewater Reserve to administer loans and grants for wastewater collection  
11 systems, wastewater treatment works, stormwater quality projects, and nonpoint source  
12 pollution projects. The wastewater accounts must include an account for each type of loan or  
13 grant set out in G.S. 159G-33.

14 (f) Drinking Water Reserve. – The Drinking Water Reserve is established as an account  
15 within the Water Infrastructure Fund. The account is established to receive State funds that are  
16 to be used for loans and grants for public water systems. Revenue credited to the Reserve is  
17 neither received from the federal government nor provided as a match for federal funds.

18 (g) Drinking Water Accounts. – ~~The Department Authority~~ is directed to establish  
19 accounts within the Drinking Water Reserve to administer loans and grants for public water  
20 systems. The drinking water accounts must include an account for each type of loan or grant set  
21 out in G.S. 159G-34."

22 **SECTION 11.** G.S. 159G-23 reads as rewritten:

23 **"§ 159G-23. Common criteria for loan or grant from Wastewater Reserve or Drinking**  
24 **Water Reserve.**

25 The criteria in this section apply to a loan or grant from the Wastewater Reserve or the  
26 Drinking Water Reserve. ~~The Division of Water Quality and the Division of Environmental~~  
27 ~~Health must each~~ The Authority shall establish a system of assigning points to applications  
28 based on the following criteria:

- 29 (1) Public necessity. – An applicant must explain how the project promotes  
30 public health and protects the environment. A project that improves a system  
31 that is not in compliance with permit requirements or is under orders from  
32 the Department, enables a moratorium to be lifted, or replaces failing septic  
33 tanks with a wastewater collection system has priority.
- 34 (2) Effect on impaired waters. – A project that improves designated impaired  
35 waters of the State has priority.
- 36 (3) Efficiency. – A project that achieves efficiencies in meeting the State's water  
37 infrastructure needs or reduces vulnerability to drought consistent with Part  
38 2A of Article 21 and Article 38 of Chapter 143 of the General Statutes by  
39 one of the following methods has priority:
- 40 a. The combination of two or more wastewater or public water systems  
41 into a regional wastewater or public water system by merger,  
42 consolidation, or another means.
  - 43 b. Conservation or reuse of water, including bulk water reuse facilities  
44 and waterlines to supply reuse water for irrigation and other  
45 approved uses.
  - 46 c. Construction of an interconnection between water systems intended  
47 for use in drought or other water shortage emergency.
  - 48 d. Repair or replacement of leaking waterlines to improve water  
49 conservation and efficiency or to prevent contamination.
  - 50 e. Replacement of meters and installation of new metering systems.

- 1 (4) Comprehensive land-use plan. – A project that is located in a city or county  
2 that has adopted or has taken significant steps to adopt a comprehensive  
3 land-use plan under Article 18 of Chapter 153A of the General Statutes or  
4 Article 19 of Chapter 160A of the General Statutes has priority over a  
5 project located in a city or county that has not adopted a plan or has not  
6 taken steps to do so. The existence of a plan has more priority than steps  
7 taken to adopt a plan, such as adoption of a zoning ordinance. A plan that  
8 exceeds the minimum State standards for protection of water resources has  
9 more priority than one that does not. A project is considered to be located in  
10 a city or county if it is located in whole or in part in that unit. A land-use  
11 plan is not considered a comprehensive land-use plan unless it has  
12 provisions that protect existing water uses and ensure compliance with water  
13 quality standards and classifications in all waters of the State affected by the  
14 plan.
- 15 (5) Flood hazard ordinance. – A project that is located in a city or county that  
16 has adopted a flood hazard prevention ordinance under G.S. 143-215.54A  
17 has priority over a project located in a city or county that has not adopted an  
18 ordinance. A plan that exceeds the minimum standards under  
19 G.S. 143-215.54A for a flood hazard prevention ordinance has more priority  
20 than one that does not. A project is considered to be located in a city or  
21 county if it is located in whole or in part in that unit. If no part of the service  
22 area of a project is located within the 100-year floodplain, the project has the  
23 same priority under this subdivision as if it were located in a city or county  
24 that has adopted a flood hazard prevention ordinance. The most recent maps  
25 prepared pursuant to the National Flood Insurance Program or approved by  
26 the Department determine whether an area is within the 100-year floodplain.
- 27 (6) Sound management. – A project submitted by a local government unit that  
28 has demonstrated a willingness and ability to meet its responsibilities  
29 through sound fiscal policies and efficient operation and management has  
30 priority.
- 31 (6a) Asset management plan. – A project submitted by a local government unit  
32 with more than 1,000 service connections that has developed and is  
33 implementing an asset management plan has priority over a project  
34 submitted by a local government unit with more than 1,000 service  
35 connections that has not developed or is not implementing an asset  
36 management plan.
- 37 (7) Capital improvement plan. – A project that implements the applicant's  
38 capital improvement plan for the wastewater system or public water system  
39 it manages has priority over a project that does not implement a capital  
40 improvement plan. To receive priority, a capital improvement plan must set  
41 out the applicant's expected water infrastructure needs for at least 10 years.
- 42 (8) Coastal habitat protection. – A project that implements a recommendation of  
43 a Coastal Habitat Protection Plan adopted by the Environmental  
44 Management Commission, the Coastal Resources Commission, and the  
45 Marine Fisheries Commission pursuant to G.S. 143B-279.8 has priority over  
46 other projects that affect counties subject to that Plan.
- 47 (9) High-unit-cost threshold. – A high-unit-cost project has priority over  
48 projects that are not high-unit-cost projects. The priority given to a  
49 high-unit-cost project shall be set using a sliding scale based on the amount  
50 by which the applicant exceeds the high-unit-cost threshold.

- 1 (10) Regionalization. – A project to provide for the planning of regional public  
2 water and wastewater systems, to provide for the orderly coordination of  
3 local actions relating to public water and wastewater systems, or to help  
4 realize economies of scale in regional public water and wastewater systems  
5 through consolidation, management, merger, or interconnection of public  
6 water and wastewater systems has priority. If an applicant demonstrates that  
7 it is not feasible for the project to include regionalization, the funding  
8 agency shall assign the project the same priority as a project that includes  
9 regionalization.
- 10 (11) State water supply plan. – A project that addresses a potential conflict  
11 between local plans or implements a measure in which local water supply  
12 plans could be better coordinated, as identified in the State water supply plan  
13 pursuant to G.S. 143-355(m), has priority.
- 14 (12) Water conservation measures for drought. – A project that includes adoption  
15 of water conservation measures by a local government unit that are more  
16 stringent than the minimum water conservation measures required pursuant  
17 to G.S. 143-355.2 has priority."

18 **SECTION 12.** G.S. 159G-24(b) reads as rewritten:

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

27 **SECTION 13.** G.S. 159G-25 reads as rewritten:

28 "**§ 159G-25. Expenditure for emergency corrective action at a wastewater treatment**  
29 **works.**

30 (a) The ~~Department Authority~~ may use revenue in any account of the Wastewater  
31 Reserve to provide funds for emergency corrective action at a wastewater treatment works  
32 under the circumstances set out in this section. The amount expended in a fiscal year for  
33 corrective action under this section may not exceed two hundred thousand dollars (\$200,000).  
34 An expenditure for emergency corrective action is authorized only under the following  
35 circumstances:

- 36 (1) A person holding a wastewater discharge or nondischarge permit issued  
37 under Article 21 of Chapter 143 of the General Statutes is violating the terms  
38 of the permit.
- 39 (2) The wastewater treatment works operated under the permit has a design flow  
40 capacity of no more than 100,000 gallons a day.
- 41 (3) The ~~Department Authority~~ has given the permit holder written notice of the  
42 violation.
- 43 (4) The permit holder refuses to take the action required to comply with the  
44 permit.
- 45 (5) The inaction by the permit holder poses a threat to public health.
- 46 (6) The ~~Department Authority~~ has informed the permit holder in writing that the  
47 ~~Department Authority~~ plans to take emergency corrective action and then  
48 bring a civil action against the permit holder to recover the cost of the  
49 emergency corrective action.

50 (b) The ~~Department Authority~~ may bring a civil action against the holder of the permit  
51 for the wastewater treatment works to recover the amount expended from the Wastewater

1 Reserve for the emergency corrective action. The amount recovered in a civil action must be  
2 credited to the account in the Wastewater Reserve from which the funds were expended."

3 **SECTION 14.** G.S. 159G-26(a) reads as rewritten:

4 "(a) Requirement. – The ~~Department Authority~~ must publish a report each year on the  
5 accounts in the Water Infrastructure Fund that are administered by the ~~Division of Water~~  
6 ~~Quality or the Division of Environmental Health Authority~~. The report must be published by 1  
7 November of each year and cover the preceding fiscal year. The ~~Department Authority~~ must  
8 make the report available to the public and must give a copy of the report to the Environmental  
9 Review Commission and the Fiscal Research Division of the General Assembly."

10 **SECTION 15.** G.S. 159G-30 reads as rewritten:

11 "**§ 159G-30. Department's Authority's responsibility.**

12 The ~~Department Authority~~ administers loans and grants made from the CWSRF, the  
13 DWSRF, the Wastewater Reserve, and the Drinking Water Reserve. ~~The Division of Water~~  
14 ~~Quality administers loans and grants from the CWSRF and the Wastewater Reserve. The~~  
15 ~~Division of Environmental Health administers loans and grants from the DWSRF and the~~  
16 ~~Drinking Water Reserve."~~

17 **SECTION 16.** G.S. 159G-32 reads as rewritten:

18 "**§ 159G-32. Projects eligible for loan or grant.**

19 (a) CWSRF and DWSRF. – Federal law determines whether a project is eligible for a  
20 loan or grant from the CWSRF and the DWSRF. A project must meet the eligibility  
21 requirements set under federal law.

22 (b) Wastewater Reserve. – The ~~Department Authority~~ is authorized to make loans and  
23 grants from the Wastewater Reserve for the following types of projects:

- 24 (1) Wastewater collection system.
- 25 (2) Wastewater treatment works.
- 26 (3) Stormwater quality project.
- 27 (4) Nonpoint source pollution project.

28 (c) Drinking Water Reserve. – The ~~Department Authority~~ is authorized to make loans  
29 and grants from the Drinking Water Reserve for public water system projects."

30 **SECTION 17.** G.S. 159G-33 reads as rewritten:

31 "**§ 159G-33. Loans and grants available from Wastewater Reserve.**

32 (a) Types. – The ~~Department Authority~~ is authorized to make the types of loans and  
33 grants listed in this subsection from the Wastewater Reserve. Each type of loan or grant must  
34 be administered through a separate account within the Wastewater Reserve.

- 35 (1) General. – A loan or grant is available for a project authorized in  
36 G.S. 159G-32(b).
- 37 (2) High-unit-cost grant. – A high-unit-cost grant is available for the portion of  
38 the construction costs of a wastewater collection system project or a  
39 wastewater treatment works project that results in an estimated average  
40 household user fee for water and sewer service in the area served by the  
41 project that exceeds the high-unit-cost threshold.
- 42 (3) Technical assistance grant. – A technical assistance grant is available to  
43 determine the best way to correct the deficiencies in a wastewater collection  
44 system or wastewater treatment works that either is not in compliance with  
45 its permit limits or, as identified in the most recent inspection report by the  
46 ~~Department Authority~~ under G.S. 143-215.3, is experiencing operational  
47 problems and is at risk of violating its permit limits.
- 48 (4) Emergency loan. – An emergency loan is available in the event the Secretary  
49 certifies that a serious public health hazard related to the inadequacy of an  
50 existing wastewater collection system or wastewater treatment works is  
51 present or imminent in a community.

1 (b) Interaccount Transfer. – The ~~Secretary~~chair of the Authority may use revenue in  
2 any account in the Wastewater Reserve to provide funds for an emergency loan."

3 **SECTION 18.** G.S. 159G-34 reads as rewritten:

4 **"§ 159G-34. Loans and grants available from Drinking Water Reserve.**

5 (a) Types. – The ~~Department~~Authority is authorized to make the types of loans and  
6 grants listed in this section from the Drinking Water Reserve. Each type of loan or grant must  
7 be administered through a separate account within the Drinking Water Reserve.

8 (1) General. – A loan or grant is available for a project for a public water  
9 system.

10 (2) High-unit-cost grant. – A grant is available for the portion of the  
11 construction costs of a public water system project that results in an  
12 estimated average household user fee for water and sewer service in the area  
13 served by the project that exceeds the high-unit-cost threshold.

14 (3) Technical assistance grant. – A technical assistance grant is available to  
15 determine the best way to correct the deficiencies in a public water system  
16 that does not comply with State law or the rules adopted to implement that  
17 law.

18 (4) Emergency loan. – An emergency loan is available to an applicant in the  
19 event the Secretary certifies that either a serious public health hazard or a  
20 drought emergency related to the water supply system is present or imminent  
21 in a community.

22 (b) Interaccount Transfer. – The ~~Secretary~~chair of the Authority may use revenue in  
23 any account in the Drinking Water Reserve to provide funds for an emergency loan."

24 **SECTION 19.** G.S. 159G-35 reads as rewritten:

25 **"§ 159G-35. Criteria for loans and grants.**

26 (a) CWSRF and DWSRF. – Federal law determines the criteria for awarding a loan or  
27 grant from the CWSRF or the DWSRF. An award of a loan or grant from one of these accounts  
28 must meet the criteria set under federal law. The ~~Department~~Authority is directed to establish  
29 through negotiation with the United States Environmental Protection Agency the criteria for  
30 evaluating applications for loans and grants from the CWSRF and the DWSRF and the priority  
31 assigned to the criteria. The ~~Department~~Authority must incorporate the negotiated criteria and  
32 priorities in the Capitalization Grant Operating Agreement between the ~~Department~~Authority  
33 and the United States Environmental Protection Agency. The criteria and priorities  
34 incorporated in the Agreement apply to a loan or grant from the CWSRF or the DWSRF. The  
35 common criteria in G.S. 159G-23 do not apply to a loan or grant from the CWSRF or the  
36 DWSRF.

37 (b) Reserves. – The common criteria in G.S. 159G-23 apply to a loan or grant from the  
38 Wastewater Reserve or the Drinking Water Reserve. The ~~Department~~Authority may establish  
39 by rule other criteria that apply to a loan or grant from the Wastewater Reserve or the Drinking  
40 Water Reserve."

41 **SECTION 20.** G.S. 159G-37 reads as rewritten:

42 **"§ 159G-37. Application to CWSRF, Wastewater Reserve, DWSRF, and Drinking Water  
43 Reserve.**

44 An application for a loan or grant from the CWSRF or the Wastewater Reserve must be  
45 filed with the ~~Division of Water Quality of the Department~~Authority. An application for a  
46 loan or grant from the DWSRF or the Drinking Water Reserve must be filed with the ~~Division  
47 of Environmental Health of the Department~~Authority. An application must be submitted on a  
48 form prescribed by the ~~Division~~Authority and must contain the information required by the  
49 ~~Division~~Authority. An applicant must submit to the ~~Division~~Authority any additional  
50 information requested by the ~~Division~~Authority to enable the ~~Division~~Authority to make a  
51 determination on the application. An application that does not contain information required on

1 the application or requested by the ~~Division Authority~~ is incomplete and is not eligible for  
2 consideration. An applicant may submit an application in as many categories as it is eligible for  
3 consideration under this Article."

4 **SECTION 21.** G.S. 159G-38 reads as rewritten:

5 **"§ 159G-38. Environmental assessment and public hearing.**

6 (a) Required Information. – An application submitted under this Article for a loan or  
7 grant for a project must state whether the project requires an environmental assessment. If the  
8 application indicates that an environmental assessment is not required, it must identify the  
9 exclusion in the North Carolina Environmental Policy Act, Article 1 of Chapter 113A of the  
10 General Statutes, that applies to the project. If the application does not identify an exclusion in  
11 the North Carolina Environmental Policy Act, it must include an environmental assessment of  
12 the project's probable impacts on the environment.

13 (b) ~~Division Authority~~ Review. – If, after reviewing an application, the ~~Division of~~  
14 ~~Water Quality or the Division of Environmental Health, Authority,~~ as appropriate, determines  
15 that a project requires an environmental assessment, the assessment must be submitted before  
16 the ~~Division Authority~~ continues its review of the application. If, after reviewing an  
17 environmental assessment, the ~~Division Authority~~ concludes that an environmental impact  
18 statement is required, the ~~Division Authority~~ may not continue its review of the application  
19 until a final environmental impact statement has been completed and approved as provided in  
20 the North Carolina Environmental Policy Act.

21 (c) Hearing. – The ~~Division of Water Quality or the Division of Environmental Health,~~  
22 ~~as appropriate, Authority~~ may hold a public hearing on an application for a loan or grant under  
23 this Article if it determines that holding a hearing will serve the public interest. An individual  
24 who is a resident of any county in which a proposed project is located may submit a written  
25 request for a public hearing. The request must set forth each objection to the proposed project  
26 or other reason for requesting a hearing and must include the name and address of the  
27 individual making the request. The ~~Division Authority~~ may consider all written objections to  
28 the proposed project, any statement submitted with the hearing request, and any significant  
29 adverse effects the proposed project may have on the environment. The ~~Division's Authority's~~  
30 decision on whether to hold a hearing is conclusive. The ~~Division Authority~~ must keep all  
31 written requests for a hearing on an application as part of the records pertaining to the  
32 application."

33 **SECTION 22.** G.S. 159G-39 reads as rewritten:

34 **"§ 159G-39. Review of applications and award of loan or grant.**

35 (a) Point Assignment. – The ~~Division of Water Quality or the Division of~~  
36 ~~Environmental Health, as appropriate, Authority~~ must review all applications filed for a loan or  
37 grant under this Article for an application period. The ~~Division Authority~~ must rank each  
38 application in accordance with the points assigned to the evaluation criteria. The ~~Division~~  
39 ~~Authority~~ must make a written determination of an application's rank and attach the  
40 determination to the application. The ~~Division's Authority's~~ determination of rank is conclusive.

41 (b) Initial Consideration. – The ~~Division Authority~~ may consider an application for an  
42 emergency loan from the Wastewater Reserve or the Drinking Water Reserve at any time. The  
43 ~~Division Authority~~ must consider all other loan applications and all grant applications filed  
44 during an application period at the same time in order to rank the applications.

45 (c) Reconsideration. – When an application's rank is too low to receive an award of a  
46 loan or grant for an application period, the ~~Division Authority~~ must include the application with  
47 those considered for the next application period. If the application's rank is again too low to  
48 receive an award, the application is not eligible for consideration in a subsequent application  
49 period. An applicant whose application does not receive an award after review in two  
50 application periods may file a new application.

1 (d) Notification of Decision. – When the ~~Division~~Authority determines that an  
2 application's rank makes it eligible for an award of a loan or grant, the ~~Division~~Authority must  
3 send the applicant a letter of intent to award the loan or grant. The notice must set out any  
4 conditions the applicant must meet to receive an award of a loan or grant. When the applicant  
5 satisfies the conditions set out in the letter of intent, the ~~Division~~Authority must send the  
6 applicant an offer to award a loan or grant. The applicant must give the ~~Division~~Authority  
7 written notice of whether it accepts or rejects the offer. A loan or grant is considered awarded  
8 when an offer to award the loan or grant is issued."

9 **SECTION 23.** G.S. 159G-40 reads as rewritten:

10 "**§ 159G-40. Terms of loan and execution of loan documents.**

11 (a) Approval by Local Government Commission. – The ~~Department~~Authority may not  
12 award a loan under this Article unless the Local Government Commission approves the award  
13 of the loan and the terms of the loan. The terms of a loan awarded from the CWSRF and the  
14 DWSRF must be consistent with federal law. In reviewing a proposed loan to a local  
15 government unit, the Local Government Commission must consider the loan as if it were a  
16 bond proposal and review the proposed loan in accordance with the factors set out in  
17 G.S. 159-52 for review of a proposed bond issue. The Local Government Commission must  
18 review a proposed loan to a nonprofit water corporation in accordance with the factors set out  
19 in G.S. 159-153.

20 (b) Interest Rate and Maturity. – The interest rate payable on and the maximum  
21 maturity of a loan are subject to the following limitations:

22 (1) Interest rate. – The interest rate for a loan may not exceed the lesser of four  
23 percent (4%) or one half the prevailing national market rate for tax-exempt  
24 general obligation debt of similar maturities derived from a published  
25 indicator. When recommended by the ~~Department~~Authority, the Local  
26 Government Commission may set an interest rate for a loan for a targeted  
27 interest rate project at a rate that is lower than the standard rate to achieve  
28 the purpose of the target.

29 (2) Maturity. – The maximum maturity for a loan for a project that is not a  
30 high-unit-cost project may not exceed 20 years or the project's expected life,  
31 whichever is shorter. The maximum maturity for a loan for a high-unit-cost  
32 project is 30 years or the project's expected life, whichever is shorter.

33 (c) Security for Loan. – A local government unit may pledge any of the following,  
34 alone or in combination, as security for an obligation to repay the principal of and interest on a  
35 loan awarded under this Article:

36 (1) User fee revenues derived from operation of the wastewater system or public  
37 water system that benefits from the project for which the loan is awarded.

38 (2) A mortgage, deed of trust, security interest, or similar lien on part or all of  
39 the real and personal property comprising the wastewater system or public  
40 water system that benefits from the project for which the loan is awarded.

41 (3) Its full faith and credit if it meets the requirements of Article 4 of Chapter  
42 159 of the General Statutes.

43 (4) Nontax revenue not included in subdivision (1) of this subsection.

44 (d) Debt Instrument. – A local government unit and a nonprofit water corporation may  
45 execute a debt instrument payable to the State to evidence an obligation to repay the principal  
46 of and interest on a loan awarded under this Article. The Treasurer, with the assistance of the  
47 Local Government Commission, must develop debt instruments for use by local government  
48 units and nonprofit water corporations under this section. The Local Government Commission  
49 must develop procedures for loan recipients to deliver debt instruments to the State without  
50 public bidding."

51 **SECTION 24.** G.S. 159G-41 reads as rewritten:

1 **"§ 159G-41. Withdrawal of loan or grant.**

2 A letter of intent to offer an award for a loan or grant for a project is withdrawn if the  
3 applicant fails to enter into a construction contract for the project within two years after the date  
4 of the letter, unless the ~~Department Authority~~ finds that the applicant has good cause for the  
5 failure. An award for a loan or grant for a project is withdrawn if the applicant fails to enter into  
6 a construction contract for the project within one year after the date of the award, unless the  
7 ~~Department Authority~~ finds that the applicant has good cause for the failure. If the ~~Department~~  
8 ~~Authority~~ finds good cause for an applicant's failure, the ~~Department Authority~~ must set a date  
9 by which the applicant must take action or forfeit the loan or grant."

10 **SECTION 25.** G.S. 159G-42 reads as rewritten:

11 **"§ 159G-42. Disbursement of loan or grant.**

12 The ~~Department Authority~~ must disburse the proceeds of a loan or grant to a recipient in a  
13 series of payments based on the progress of the project for which the loan or grant was  
14 awarded. To obtain a payment, a loan or grant recipient must submit a request for payment to  
15 the ~~Department Authority~~ and document the expenditures for which the payment is requested."

16 **SECTION 26.** G.S. 159G-43 reads as rewritten:

17 **"§ 159G-43. Inspection of project.**

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

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

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

30 **SECTION 27.** G.S. 159G-44 reads as rewritten:

31 **"§ 159G-44. Rules.**

32 The ~~Department Authority~~ may adopt rules to implement this Chapter. Chapter 150B of the  
33 General Statutes, the Administrative Procedure Act, governs the adoption of rules by the  
34 ~~Department Authority~~. A rule adopted to administer a loan or grant from the CWSRF or the  
35 DWSRF must be consistent with federal law. The ~~Department Authority~~ must give a copy of  
36 the rules adopted to implement this Article without charge to a person who requests a copy."

37 **SECTION 28.** Article 4 of Chapter 159G of the General Statutes is repealed.

38 **SECTION 29.** This act becomes effective July 1, 2012.