

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015**

**HOUSE BILL 538
RATIFIED BILL**

AN ACT TO AMEND AND CLARIFY THE POWERS OF WATER AND SEWER AUTHORITIES, TO AUTHORIZE COUNTIES AND CITIES TO PLEDGE A SECURITY INTEREST IN AN ESCROW ACCOUNT UNDER CERTAIN CONDITIONS, TO ALLOW THE LOCAL GOVERNMENT COMMISSION TO AUTHORIZE A THIRTY-YEAR MATURITY DATE FOR THE FINANCING OF CERTAIN WATER SYSTEM PROJECTS, TO AUTHORIZE METROPOLITAN WATER DISTRICTS AND METROPOLITAN WATER AND SEWERAGE DISTRICTS TO ENTER INTO INSTALLMENT CONTRACT FINANCING AGREEMENTS, AND TO REQUIRE PUBLIC OR COMMUNITY WASTEWATER SYSTEMS TO ACCEPT LIQUID CONDENSATE GENERATED BY RESIDENTIAL HEATING AND COOLING SYSTEMS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 162A-6(a)(14c) reads as rewritten:

"(14c) To adopt ordinances concerning any of the following:

- a. ~~to regulate~~ The regulation and control of the discharge of sewage or stormwater into any sewerage system owned or operated by the authority, to adopt ordinances concerning stormwater authority.
- b. The regulation and control of a water system owned or operated by the authority.
- c. Stormwater management programs designed to protect water quality by controlling the level of pollutants in and the quantity and flow of stormwater, and to adopt ordinances to regulate stormwater.
- d. The regulation and control of structural and natural stormwater and drainage systems of all types.

Prior to the adoption of any such ordinance or any amendment to any such ordinance, the authority shall first pass a declaration of intent to adopt such ordinance or amendment. The declaration of intent shall describe the ordinance which it is proposed that the authority adopt. The declaration of intent shall be submitted to each governing body for review and comment. The authority shall consider any comment or suggestions offered by any governing body with respect to the proposed ordinance or amendment. Thereafter, the authority shall be authorized to adopt such ordinance or amendment to it at any time after 60 days following the submission of the declaration of intent to each governing body."

SECTION 2. G.S. 162A-6(a) is amended by adding two new subdivisions to read:

"(17) To enter into reimbursement agreements to be paid by the authority to a private developer or property owner for the design and construction of infrastructure that is included on the authority's capital improvement plan and serves the developer or property owner. An authority shall enact ordinances setting forth procedures and terms under which such agreements may be approved. An authority may provide for such reimbursements to be paid from any lawful source. Reimbursement agreements authorized by this subdivision shall not be subject to Article 8 of Chapter 143 of the General Statutes, except as provided by this subsection. A developer or property owner who is party to a reimbursement agreement authorized under this subdivision shall solicit bids in accordance with Article 8 of Chapter 143 of



the General Statutes when awarding contracts for work that would have required competitive bidding if the contract had been awarded by the authority. For the purpose of this subdivision, infrastructure includes, without limitation, water mains, sanitary sewer lines, lift stations, water pump stations, stormwater lines, and other associated facilities.

- (18) To offer and pay rewards in an amount not exceeding five thousand dollars (\$5,000) for information leading to the arrest and conviction of any person who willfully defaces, damages or destroys, or commits acts of vandalism or larceny of any authority property. The amount necessary to pay said rewards shall be an item in the current expense budget of the authority."

SECTION 3. Article 3 of Chapter 160A of the General Statutes is amended by adding a new section to read:

"§ 160A-17.2. Security interests in United States Department of Agriculture loans.

(a) A county or municipality may pledge a security interest in an escrow account funded with loan proceeds, or a certificate of deposit, to secure repayment of the loan, only if the loan is an interest-free loan agreement entered into with the United States Department of Agriculture or an authorized intermediary acting on behalf of the United States Department of Agriculture. Any such escrow account must be substantiated by a written escrow agreement, and the funds must be deposited in accordance with G.S. 159-30 and G.S. 159-31. Any certificate of deposit shall comply with the requirements of G.S. 159-30.

(b) An interest-free loan agreement entered into under this section is subject to approval by the Local Government Commission under Article 8 of Chapter 159 of the General Statutes, unless exempted in G.S. 159-148(b).

(c) No deficiency judgment may be rendered against any county or municipality in any action for breach of a contractual obligation authorized by this section. The taxing power of a county or municipality is not and may not be pledged directly or indirectly to secure any moneys due under a contract authorized by this section."

SECTION 4.(a) G.S. 159G-40(b) reads as rewritten:

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

- (1) Interest rate. – The interest rate for a loan may not exceed the lesser of four percent (4%) or one half the prevailing national market rate for tax-exempt general obligation debt of similar maturities derived from a published indicator. When recommended by the Department, the Local Government Commission may set an interest rate for a loan for a targeted interest rate project at a rate that is lower than the standard rate to achieve the purpose of the target.
- (2) Maturity. – ~~The~~ Except as provided in this subsection, the maximum maturity for a loan for a project that is not a high-unit-cost targeted interest rate project may not exceed 20 years or the project's expected life, whichever is shorter. ~~The maximum maturity for a loan for a high-unit-cost project is 30 years or the project's expected life, whichever is shorter.~~ Upon approval of the Local Government Commission, the maximum maturity for a loan that is not a targeted interest rate project may extend to 30 years. Such approval is explicitly limited to local government units that meet all of the following criteria:
 - a. The project serves a system that is ranked as Tier I on the 2007-08 Tier Drought Vulnerability List developed by the Department.
 - b. The loan amount is at least as great as eight times the amount of the operating revenue of the unit's system for which the loan is being granted."

SECTION 4.(b) This section is effective when it becomes law and expires July 1, 2016. The sunset does not affect the validity of any loan agreement approved by the Local Government Commission prior to the sunset or loan increases approved after the sunset, provided the loan was approved in accordance with G.S. 159G-40, as amended by this section, prior to the sunset.

SECTION 5.(a) G.S. 160A-20(h) is amended by adding two new subdivisions to read:

"(h) Local Government Defined. – As used in this section, the term "unit of local government" means any of the following:

...
(3d) A metropolitan water district created under Article 4 of Chapter 162A of the General Statutes.

(3e) A metropolitan water and sewerage district created under Article 5A of Chapter 162A of the General Statutes.

...."

SECTION 5.(b) G.S. 162A-36(a) is amended by adding a new subdivision to read:

"(a) Each district shall be deemed to be a public body and body politic and corporate, exercising public and essential governmental functions, to provide for the preservation and promotion of the public health and welfare, and said district is hereby authorized and empowered:

...
(7a) To pledge a security interest in accordance with G.S. 160A-20.

...."

SECTION 5.(c) G.S. 162A-69 is amended by adding a new subdivision to read:

"§ 162A-69. Powers generally; fiscal year.

Each district shall be deemed to be a public body and body politic and corporate exercising public and essential governmental functions to provide for the preservation and promotion of the public health and welfare, and each district is hereby authorized and empowered:

...
(11a) To pledge a security interest in accordance with G.S. 160A-20.

...."

SECTION 6. Article 11 of Chapter 130A of the General Statutes is amended by adding a new section to read:

"§ 130A-345. Disposal of liquid condensate from residential heating and cooling systems.

Notwithstanding any other provision of law, every public or community wastewater system, as defined in G.S. 130A-334(8), shall provide for the collection of liquid condensate from residential heating and cooling systems by the public or community wastewater system."

SECTION 7. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 6th day of August, 2015.

s/ Daniel J. Forest
President of the Senate

s/ Tim Moore
Speaker of the House of Representatives

Pat McCrory
Governor

Approved _____,m. this _____ day of _____, 2015