

**GENERAL ASSEMBLY OF NORTH CAROLINA**

**SESSION 1991**

**S**

**1**

**SENATE BILL 1238**

Short Title: Clean Water Bond Bill.

(Public)

---

Sponsors: Senators Daniel; Warren, Marvin, Smith, and Seymour.

---

Referred to: Finance.

---

June 8, 1992

**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 LOCAL GOVERNMENT UNITS FOR WATER SUPPLY SYSTEMS, WASTEWATER COLLECTION SYSTEMS, OR WASTEWATER TREATMENT WORKS.**

The General Assembly of North Carolina enacts:

Section 1. Short title. This act shall be known and may be cited as the "North Carolina Clean Water Bond Act of 1992."

Sec. 2. Findings and determinations. It is the intent and purpose of the General Assembly by this act to provide for the issuance of general obligation bonds of the State in order to assist in the financing of the cost of improvements, enlargements, extensions, and reconstruction of water supply systems, wastewater collection systems and wastewater treatment works, and the construction of new such systems and works.

Sec. 3. Definitions. As used in this act, unless the context otherwise requires:

- (1) " Bonds" means bonds issued under this act.
- (2) " Clean Water Revolving Loan and Grant Fund" means the Clean Water Revolving Loan and Grant Fund as defined in the Clean Water Revolving Loan and Grant Fund Act.
- (3) " Clean Water Revolving Loan and Grant Fund Act" means Chapter 796 of the 1987 Session Laws, as the same may be amended from time to time, which, as codified appears as Chapter 159G of the General Statutes.

- 1 (4) " Cost" means without intending thereby to limit or restrict any proper  
2 definition of such word in financing the cost of facilities or purposes  
3 authorized by this act:
- 4 a. The cost of constructing, reconstructing, enlarging, acquiring,  
5 and improving facilities, and acquiring equipment and land  
6 therefor,
- 7 b. The cost of engineering, architectural, and other consulting  
8 services as may be required,
- 9 c. Administrative expenses and charges,
- 10 d. The cost of bond insurance, investment contracts, credit  
11 enhancement and liquidity facilities, interest-rate swap  
12 agreements, financial and legal consultants, and related costs of  
13 bond and note issuance, to the extent and as determined by the  
14 State Treasurer, and
- 15 e. Any other costs and expenses necessary or incidental to the  
16 purposes of this act.
- 17 (5) " Credit facility" means an agreement entered into by the State  
18 Treasurer on behalf of the State with a bank, savings and loan  
19 association or other banking institution, an insurance company,  
20 reinsurance company, surety company or other insurance institution, a  
21 corporation, investment banking firm or other investment institution,  
22 or any financial institution or other similar provider of a credit facility,  
23 which provider may be located within or without the United States of  
24 America, such agreement providing for prompt payment of all or any  
25 part of the principal or purchase price (whether at maturity,  
26 presentment, or tender for purchase, redemption, or acceleration),  
27 redemption premium, if any, and interest on any bonds or notes  
28 payable on demand or tender by the owner, in consideration of the  
29 State agreeing to repay the provider of the credit facility in accordance  
30 with the terms and provisions of such agreement.
- 31 (6) " Local government units" means local government units as defined in  
32 the Clean Water Revolving Loan and Grant Fund Act.
- 33 (7) " Notes" means notes issued under this act.
- 34 (8) " Par formula" means any provision or formula adopted by the State to  
35 provide for the adjustment, from time to time, of the interest rate or  
36 rates borne by any bonds or notes, including:
- 37 a. A provision providing for such adjustment so that the purchase  
38 price of such bonds or notes in the open market would be as  
39 close to par as possible,
- 40 b. A provision providing for such adjustment based upon a  
41 percentage or percentages of a prime rate or base rate, which  
42 percentage or percentages may vary or be applied for different  
43 periods of time, or

1 c. Such other provision as the State Treasurer may determine to be  
2 consistent with this act and will not materially and adversely  
3 affect the financial position of the State and the marketing of  
4 bonds or notes at a reasonable interest cost to the State.

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

6 (10) " Water supply systems" means water supply systems as defined in the  
7 Clean Water Revolving Loan and Grant Fund Act.

8 (11) " Wastewater collection systems" means wastewater collection systems  
9 as defined in the Clean Water Revolving Loan and Grant Fund Act.

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

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

14 Sec. 4. Authorization of bonds and notes. Subject to a favorable vote of a  
15 majority of the qualified voters of the State who vote on the question of issuing clean  
16 water bonds in the election called and held as hereinafter provided, the State Treasurer  
17 is hereby authorized, by and with the consent of the Council of State, to issue and sell,  
18 at one time or from time to time, general obligation bonds of the State to be designated  
19 "State of North Carolina Clean Water Bonds," with such additional designations as may  
20 be determined to indicate the issuance of bonds from time to time, or notes of the State  
21 as herein provided, in an aggregate principal amount for the purpose of providing funds,  
22 with any other available funds, for the purposes authorized in this act.

23 Sec. 5. Use and allocation of bond and note proceeds. The proceeds of bonds  
24 and notes shall be used and allocated for the purpose of paying the cost of water supply  
25 systems, wastewater collection systems, and wastewater treatment works. The proceeds  
26 may be used in other manner as shall effectuate the purposes of this act.

27 The proceeds of bonds and notes, including premium thereon, if any, except  
28 the proceeds of bonds the issuance of which has been anticipated by bond anticipation  
29 notes or the proceeds of refunding bonds or notes, shall be placed by the State Treasurer  
30 in a special fund to be designated the "State Clean Water Bond Fund", which may  
31 include such appropriate special accounts therein as may be determined by the State  
32 Treasurer, and shall be disbursed as provided in this act.

33 Sec. 6. Allocation of proceeds of bonds and notes. The proceeds of the  
34 bonds and notes in the State Clean Water Bond Fund shall be allocated and expended as  
35 provided in this act.

36 Any additional moneys which may be received by means of a grant or  
37 grants from the United States of America or any agency or department thereof or from  
38 any other source for deposit to the State Clean Water Bond Fund may be placed in the  
39 State Clean Water Bond Fund or in a separate account or fund and shall be disbursed, to  
40 the extent permitted by the terms of such grant or grants, without regard to any  
41 limitations imposed by this act.

42 The proceeds of bonds and notes may be used with any other moneys made  
43 available by the General Assembly for making revolving loans and grants authorized by  
44 this act, including the proceeds of any other State bond issues, whether heretofore made

1 available or which may be made available at the session of the General Assembly at  
2 which this act is ratified or any subsequent sessions. The proceeds of bonds and notes  
3 shall be expended and disbursed under the direction and supervision of the Director of  
4 the Budget. The funds provided by this act shall be disbursed for the purposes provided  
5 in this act upon warrants drawn on the State Treasurer by the State Comptroller, which  
6 warrants shall not be drawn until requisition has been approved by the Director of the  
7 Budget and which requisition shall be approved only after full compliance with the  
8 Executive Budget Act, Article 1 of Chapter 143 of the General Statutes, as it may be  
9 amended from time to time.

10       Sec. 7. Election. The question of the issuance of the North Carolina Clean  
11 Water Bonds shall be submitted to the qualified voters of the State at an election to be  
12 held on Tuesday, November 3, 1992. Any other primary, election, or referendum  
13 validly called or scheduled by law at the time the election on the bond question  
14 provided for in this section is held may be held as called or scheduled. Notice of the  
15 election on the bond question shall be given by publication twice in a newspaper or  
16 newspapers having general circulation in each county in the State, and the election and  
17 the registration of voters therefor shall be held under and in accordance with the general  
18 laws of the State. Absentee ballots shall be authorized in the election.

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

23       Voting machines may be used in accordance with the rules and regulations  
24 prescribed by the State Board of Elections. The State Board of Elections may also  
25 cause to be printed and distributed, to the extent necessary, ballots for use in the  
26 election. The bond question to be used in the voting machines and any ballots shall be  
27 in substantially the following form:

28       "[] FOR the issuance of State of North Carolina Clean Water Bonds  
29       constituting general obligation bonds of the State secured by a pledge  
30       of the faith and credit and taxing power of the State for the purpose of  
31       providing funds, with any other available funds, to assist local  
32       government units in paying the cost of clean water projects.  
33

34       [] AGAINST the issuance of State of North Carolina Clean Water Bonds  
35       constituting general obligation bonds of the State secured by a pledge  
36       of the faith and credit and taxing power of the State for the purpose of  
37       providing funds, with any other available funds, to assist local  
38       government units in paying the cost of clean water projects."

39       If a majority of those voting on the bond question in the election shall vote in  
40 favor of the issuance of the bonds, such bonds may be issued as herein provided. If a  
41 majority of those voting on the bond question in the election shall vote against the  
42 issuance of the bonds, such bonds shall not be issued.

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

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

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

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

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

1 Treasurer may determine. All expenses incurred in the preparation, sale, and issuance  
2 of bonds or notes shall be paid by the State Treasurer from the proceeds of bonds or  
3 notes or other available moneys.

4 (d) Notes; repayment.

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

- 9 a. For anticipating the sale of bonds to the issuance of which the  
10 Council of State shall have given consent, if the State Treasurer  
11 shall deem it advisable to postpone the issuance of the bonds;  
12 b. For the payment of interest on or any installment of principal of  
13 any bonds then outstanding, if there shall not be sufficient funds  
14 in the State treasury with which to pay the interest or  
15 installment of principal as they respectively become due;  
16 c. For the renewal of any loan evidenced by notes herein  
17 authorized;  
18 d. For the purposes authorized in this act; and  
19 e. For refunding bonds or notes as herein authorized.

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

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

31 (f) Tax exemption. Bonds and notes and their transfer (including any profit  
32 made on the sale thereof) shall be exempt from all State, county and municipal taxation  
33 or assessment, direct or indirect, general or special, whether imposed for the purpose of  
34 general revenue or otherwise, excluding inheritance and gift taxes. The interest on  
35 bonds and notes shall not be subject to taxation as to income, nor shall the bonds and  
36 notes be subject to taxation when constituting a part of the surplus of any bank, trust  
37 company, or other corporation.

38 (g) Investment eligibility. Bonds and notes are hereby made securities in  
39 which all public officers, agencies, and public bodies of the State and its political  
40 subdivisions, all insurance companies, trust companies, investment companies, banks,  
41 savings banks, savings and loan associations, credit unions, pension or retirement funds,  
42 other financial institutions engaged in business in the State, executors, administrators,  
43 trustees, and other fiduciaries may properly and legally invest funds, including capital in  
44 their control or belonging to them. Bonds and notes are hereby made securities which

1 may properly and legally be deposited with and received by any officer or agency of the  
2 State or political subdivision of the State for any purpose for which the deposit of  
3 bonds, notes, or obligations of the State or any political subdivision is now or may  
4 hereafter be authorized by law.

5 (h) Faith and credit. The faith and credit and taxing power of the State are  
6 hereby pledged for the payment of the principal of and the interest on bonds and notes.

7 Sec. 9. Variable interest rates. In fixing the details of bonds and notes, the  
8 State Treasurer may provide that any of the bonds or notes may:

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

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

35 Sec. 10. Interpretation of act. (a) Additional method. The foregoing sections  
36 of this act shall be deemed to provide an additional and alternative method for the doing  
37 of the things authorized thereby and shall be regarded as supplemental and additional to  
38 powers conferred by other laws, and shall not be regarded as in derogation of any  
39 powers now existing.

40 (b) Statutory references. References in this act to specific sections or  
41 Chapters of the General Statutes or to specific acts are intended to be references to such  
42 sections, Chapters, or acts as they may be amended from time to time by the General  
43 Assembly.

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

3           (d) Inconsistent provisions. Insofar as the provisions of this act are  
4 inconsistent with the provisions of any general laws, or parts thereof, the provisions of  
5 this act shall be controlling.

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

10           Sec. 11. Effective date. This act is effective upon ratification.