

GENERAL ASSEMBLY OF NORTH CAROLINA  
1991 SESSION

CHAPTER 186  
SENATE BILL 344

AN ACT TO TRANSFER THE NORTH CAROLINA CLEAN WATER REVOLVING  
LOAN AND GRANT PROGRAM TO THE DEPARTMENT OF  
ENVIRONMENT, HEALTH, AND NATURAL RESOURCES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 159G-3 reads as rewritten:

**"§ 159G-3. Definitions.**

As used in this Chapter, the following words shall have the meanings indicated, unless the context clearly requires otherwise:

- (1) ~~'Administrative Account' means the Administrative Account in the Clean Water Revolving Loan and Grant Fund established in the Office of State Budget and Management under the provisions of this Chapter to cover administrative costs of the program.~~
- (2) 'Applicant' means a local government unit that applies for a revolving loan or grant under the provisions of this Chapter. In addition, a local government may provide funds to a nonprofit agency which is currently under contract and authorized to provide wastewater treatment or water supply services to that unit of local government.
- (3) 'Clean Water Revolving Loan and Grant Fund' means the fund established in the Office of State Budget and Management Department of Environment, Health, and Natural Resources to carry out the provisions of this Chapter, with various accounts therein as herein provided.
- (4) 'Construction costs' means the actual costs of planning, designing and constructing any project for which a revolving loan or grant is made under this Chapter including planning; environmental assessment; wastewater system analysis, evaluation and rehabilitation; engineering; legal, fiscal, administrative and contingency costs for water supply systems, wastewater collection systems, wastewater treatment works and any extensions, improvements, remodeling, additions, or alterations to existing systems. Construction costs may include excess or reserve capacity costs, attributable to no more than 20-year projected domestic growth, plus ten percent (10%) unspecified industrial growth. In addition, construction costs shall include any fees payable to the Environmental Management Commission or the Division of Environmental Health for review of applications and grant

of permits, and fees for inspections under G.S. 159G-14. Construction costs may also include the costs for purchase or acquisition of real property.

- (5) 'Grant' means a sum of money given by the State to a local government unit to subsidize the construction costs of a project authorized by this Chapter, without any obligation on the part of such unit to repay such sum.
- (6) 'Commission for Health Services' means the Commission for Health Services created by G.S. 130A-29.
- (6a) 'Debt instrument' means an instrument in the nature of a promissory note executed by a local government unit under the provisions of this Chapter, to evidence a debt to the State and obligation to repay the principal, plus interest, under stated terms.
- (7) 'Division of Environmental Health' means the Division of Environmental Health of the Department of Environment, Health, and Natural Resources.
- (8) 'Environmental Management Commission' means the Environmental Management Commission of the Department of Environment, Health, and Natural Resources.
- (9) 'Local Government Commission' means the Local Government Commission of the Department of the State Treasurer, established by Article 2 of Chapter 159 of the General Statutes.
- (10) 'Local government unit' means a county, city, town, incorporated village, sanitary district, metropolitan sewerage district, metropolitan water district, county water and sewer district, water and sewer authority or joint agency created pursuant to Part 1 of Article 20 of Chapter 160A of the General Statutes.
- (11) ~~'Office of State Budget and Management' means the Office of State Budget and Management established by law.~~
- (12) 'Receiving agency' means the Division of Environmental Health with respect to receipt of applications for revolving loans and grants for water supply systems, and the Environmental Management Commission and the Division of Environmental Management with respect to receipt of applications for revolving loans and grants for wastewater systems.
- (13) 'Revolving construction loan' means a sum of money loaned by the State to a local government unit to subsidize the construction costs of a project authorized by this Chapter, with an obligation on the part of such unit to repay such sum, the proceeds of such repayment to be deposited in the Water Pollution Control Revolving Fund.
- (14) 'Revolving emergency loan' means a sum of money loaned by the State to a local government unit upon a certification, as provided in this Chapter, of a serious public health hazard, with an obligation on the part of such unit to repay such sum.

- (15) 'Revolving loan' includes a revolving construction loan and an emergency loan.
- (15a) 'State' means the State of North Carolina.
- (15b) 'State Treasurer' means the Treasurer of the State elected pursuant to Article III, Section 7 of the Constitution or his designated representative.
- (16) 'Wastewater Accounts' means the various accounts in the Clean Water Revolving Loan and Grant Fund established in the ~~Office of State Budget and Management~~ Department of Environment, Health, and Natural Resources under this Chapter for revolving loans and grants for wastewater treatment work and wastewater collection system projects.
- (17) 'Wastewater collection system' means a unified system of pipes, conduits, pumping stations, force mains, and appurtenances other than interceptor sewers, for collecting and transmitting water-carried human wastes and other wastewater from residences, industrial establishments or any other buildings, and owned by a local government unit.
- (18) 'Wastewater treatment works' means the various facilities and devices used in the treatment of sewage, industrial waste or other wastes of a liquid nature, including the necessary interceptor sewers, outfall sewers, phosphorous removal equipment, pumping, power and other equipment and their appurtenances.
- (19) 'Water Supply Accounts' means the various accounts in the Clean Water Revolving Loan and Grant Fund established in the ~~Office of State Budget and Management~~ Department of Environment, Health, and Natural Resources under this Chapter for revolving loans and grants for water supply system projects.
- (20) 'Water supply system' means a public water supply system consisting of facilities and works for supplying, treating and distributing potable water including, but not limited to, impoundments, reservoirs, wells, intakes, water filtration plants and other treatment facilities, tanks and other storage facilities, transmission mains, distribution piping, pipes connecting the system to other public water supply systems, pumping equipment and all other necessary appurtenances, equipment and structures."

Sec. 2. G.S. 159G-4 reads as rewritten:

**"§ 159G-4. Appropriations.**

(a) Of the funds appropriated to the Clean Water Revolving Loan and Grant Fund, the amount required in each fiscal year to provide the State match of any federal funds deposited into the Water Pollution Control Revolving Fund shall be allocated to that fund.

(b) Of the appropriations made from the General Fund to the Clean Water Revolving Loan and Grant Fund for use of the ~~Office of State Budget and Management~~ Department of Environment, Health, and Natural Resources as provided in this Chapter,

allocations are made as follows after first subtracting the amounts allocated under subsection (a) of this section, to the extent that there are any excess funds available:

Wastewater Accounts

General Wastewater Revolving Loan Account	45.00%
Emergency Wastewater Revolving Loan Account	14.00%
High-Unit Cost Wastewater Account	10.00%

Water Supply Accounts

General Water Supply Revolving Loan Account	23.00%
High-Unit Cost Water Supply Account	3.00%
Emergency Water Supply Revolving Loan Account	5.00%

(c) All payments of interest and repayments of principal resulting from revolving loans shall be credited to the respective accounts from which the revolving loan funds were disbursed. Terms and conditions for repayment of revolving loans shall be established by the ~~Office of State Budget and Management, Department of Environment, Health, and Natural Resources,~~ with the assistance of the Local Government Commission, consistent with the requirements of the Federal Water Pollution Control Act and this Chapter. Provided, the interest rate for all revolving loans authorized by this Chapter shall be fixed at the same percent per annum as the interest rate fixed under the Federal Water Pollution Control Act for loans from the Water Pollution Control Revolving Fund established by G.S. 159G-5(c), not to 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. Provided further, the interest rate may be fixed at a lower rate per annum if authorized by the Federal Water Pollution Control Act Regulations. It is the intent of the General Assembly to provide uniform interest payments for all loans made to units of local government irrespective of the account from which loans are made for either wastewater or water supply projects."

Sec. 3. G.S. 159G-5(a) reads as rewritten:

**"§ 159G-5. Clean Water Revolving Loan and Grant Fund.**

(a) There is established in the ~~Office of State Budget and Management Department of Environment, Health, and Natural Resources~~ a fund to be known as the Clean Water Revolving Loan and Grant ~~Fund, Fund.~~ The Fund is to be administered by the ~~Office of State Budget and Management, Department of Environment, Health, and Natural Resources~~ which shall be responsible for receipt and disbursement of all moneys as appropriated and provided for in this Chapter."

Sec. 4. G.S. 159G-6 reads as rewritten:

**"§ 159G-6. Distribution of funds.**

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

- (2) The maximum principal amount of a revolving loan or a grant may be one hundred percent (100%) of the nonfederal share of the construction costs of any eligible project. The maximum principal amount of revolving loans made to any one local government unit during any fiscal year shall be three million dollars (\$3,000,000). The maximum principal amount of grants made to any one local government unit during any fiscal year shall be five hundred thousand dollars (\$500,000).
- (3) The State Treasurer shall be responsible for investing and distributing all funds appropriated or accruing to the Clean Water Revolving Loan and Grant Fund for revolving loans and grants under this Chapter. In fulfilling his responsibilities under this section, the State Treasurer shall make a written request to the ~~Office of State Budget and Management~~ Department of Environment, Health, and Natural Resources to arrange for the appropriated funds to be (i) transferred from the appropriate accounts to a local government unit to provide funds for one or more revolving loans or grants or (ii) invested as authorized by this Chapter with the interest on and the principal of such investments to be transferred to the local government unit to provide funds for one or more revolving loans or grants.

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

- (1) **General Wastewater Revolving Loan and Grant Account.** – The funds in the General Wastewater Revolving Loan and Grant Account shall be used exclusively for the purpose of providing for revolving construction loans or grants in connection with approved wastewater treatment work or wastewater collection system projects.
- (2) **High-Unit Cost Wastewater Account.** – The funds in the High-Unit Cost Wastewater Account shall be available for grants to applicants for high-unit cost wastewater projects. Eligibility of an applicant for such a grant shall be determined by comparing estimated average household user fees for water and sewer service, for debt service and operation and maintenance costs, to one and one-half percent (1.5%) of the median household income in the county in which the project is located. The projects which would require estimated average household water and sewer user fees greater than one and one-half percent (1.5%) of the median household income are defined as high-unit cost wastewater projects and will be eligible for a grant equal to the excess cost, subject to the limitations in subsection (a)(2) of this section.

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

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

- (1) General Water Supply Revolving Loan and Grant Account. – The funds in the General Water Supply Revolving Loan and Grant Account shall be used exclusively for the purpose of providing for revolving construction loans and grants in connection with water supply systems generally and not upon a county allotment basis.
- (2) High-Unit Cost Water Supply Account. – The funds in the High-Unit Cost Water Supply Account shall be available for grants to applicants for high-unit cost water supply systems, on the same basis as provided in G.S. 159G-6(b)(2) for high-unit cost wastewater projects.
- (3) Emergency Water Supply Revolving Loan Account. – The funds in the Emergency Water Supply Revolving Loan Account shall be available for revolving emergency loans to applicants in the event the Division of Environmental Health certifies that a serious public health hazard, related to the water supply system, is present or imminent in a community.

~~(d) Administrative Account. – The Office of State Budget and Management, from time to time, may allocate funds from the Administrative Account to meet the expenses of the Office of State Budget and Management, Local Government Commission, Division of Environmental Health and Environmental Management Commission incurred in the administration of this Chapter in excess of normal operating expenses.~~

~~Each agency entitled to receive administrative expense funds from the Administrative Account shall prepare an itemized estimate of administrative funds required for the succeeding fiscal year, and the Division of Environmental Health, the Local Government Commission and the Environmental Management Commission shall deliver their estimates to the Office of State Budget and Management at least 45 days prior to the beginning of the fiscal year for which the funds are required. The Office of State Budget and Management shall determine the administrative expense funds available and, along with its recommendations, shall deliver the estimates of the Division of Environmental Health, the Local Government Commission and of the Environmental Management Commission and its own estimate, if any, to the Advisory Budget Commission at least 30 days prior to the beginning of the fiscal year for which~~

~~the funds are required. Any administrative expense funds shall be disbursed by the Office of State Budget and Management to the appropriate agency. If the administrative expense funds disbursed to any agency shall prove insufficient, it may apply at any time during the fiscal year for additional funds in the manner above provided.~~

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

Sec. 5. G.S. 159G-8(a) reads as rewritten:

"(a) Application. – All applications for revolving loans and grants for water supply systems shall be filed with the Division of Environmental Health and all applications for revolving loans and grants for wastewater treatment works or wastewater collection systems shall be filed with the Environmental Management Commission. ~~Every applicant shall also file with the Office of State Budget and Management such information concerning the application as the Office of State Budget and Management may require by rules adopted pursuant to this Chapter.~~ Any application may be filed in as many categories as it is eligible for consideration under this Chapter. Applications for revolving construction loans or grants for wastewater treatment works and wastewater collection systems, except applications for emergency wastewater loans, shall first be submitted for a loan or grant from the Water Pollution Control Revolving Fund established by G.S. 159G-5(c). If the application is denied, the application shall then be considered for a revolving loan or a grant from the General Wastewater Revolving Loan and Grant account established under G.S. 159-6(b)(1).

~~The Office of State Budget and Management, the Division of Environmental Health Department of Environment, Health, and Natural Resources, the Commission for Health Services,~~ and the Environmental Management Commission may develop jointly and adopt a standard form of application under this Chapter. Any application for construction grants under the Federal Water Pollution Control Act may be considered as an application for revolving construction loans or grants under G.S. 159G-5(c) and G.S. 159G-6(b)(1). The information required to be set forth in the application shall be sufficient to permit the respective agencies to determine the eligibility of the applicant and to establish the priority of the application, as set forth in this Chapter.

Any applicant shall furnish information in addition or supplemental to the information contained in its application upon request by the receiving agency."

Sec. 6. G.S. 159G-12 reads as rewritten:

**"§ 159G-12. Disbursement.**

(a) No funds shall be disbursed by the ~~Office of State Budget and Management Department of Environment, Health, and Natural Resources~~ for any revolving loan or grant until it has received from the receiving agency a certificate of eligibility to the effect that the applicant meets all eligibility criteria, and that all procedural requirements of this Chapter have been met.

(b) In the event that the revolving loan or grant payments are to be made in installments, no payment shall be disbursed by the ~~Office of State Budget and~~

~~Management~~ Department of Environment, Health, and Natural Resources until the receiving agency submits a written request for disbursement.

(c) The receiving agency, in its sole discretion, may determine whether the payment of any revolving loan or grant made under this Chapter shall be in a lump sum or in installments as progress payments and shall, by adoption of appropriate rules and regulations, provide for the manner of approval and payment of revolving loans or grants. The State Treasurer, with the approval of the receiving agency and consistent with the provisions of G.S. 159G-6(a)(3), shall, by adoption of appropriate rules, provide for the payment of revolving loans or grants."

Sec. 7. G.S. 159G-15 reads as rewritten:

**"§ 159G-15. Rules.**

(a) ~~The Office of State Budget and Management,~~ Department of Environment, Health, and Natural Resources, the Commission for Health ~~Services~~ Services, and the Environmental Management Commission may adopt, modify and repeal rules establishing the procedures to be followed in the administration of this Chapter and regulations interpreting and applying the provisions of this Chapter, as provided in the Administrative Procedure Act. Uniform rules may be jointly adopted where feasible and desirable, and no rule jointly adopted may be modified or revoked except upon concurrence of all agencies involved.

(b) A copy of its rules adopted to implement the provisions of this Chapter shall be furnished free of charge by the receiving agency and the ~~Office of State Budget and Management~~ Department of Environment, Health, and Natural Resources to any local government unit."

Sec. 8. G.S. 159G-16 reads as rewritten:

**"§ 159G-16. Federal grants and loans.**

In order to carry out the purpose of this Chapter to secure the greatest benefits possible to the citizens of this State from the funds herein appropriated, the ~~Office of State Budget and Management,~~ Department of Environment, Health, and Natural Resources, the Commission for Health ~~Services~~ Services, and the Environmental Management Commission shall adopt such rules and criteria, not inconsistent with the provisions of this Chapter, as are necessary and appropriate to conform to regulations for federal grants and loans for any of the purposes set forth in this Chapter."

Sec. 9. G.S. 159G-17 reads as rewritten:

**"§ 159G-17. Annual reports to Joint Legislative Commission on Governmental Operations.**

(a) ~~The Office of State Budget and Management,~~ Department of Environment, Health, and Natural Resources, the Division of Environmental ~~Health~~ Health, and the Environmental Management Commission shall prepare and file on or before July 31 of each year with the Joint Legislative Commission on Governmental Operations a consolidated report for the preceding fiscal year concerning the allocation of revolving loans and grants authorized by this Chapter.

(b) ~~Office of State Budget and Management.~~—The portion of the report prepared by the ~~Office of State Budget and Management~~ Department of Environment, Health, and Natural Resources shall set forth for the preceding fiscal year ~~itemized and total~~



~~allocations from the Administrative Account for administrative expenses; itemized and total allocations from the Wastewater Accounts of revolving loans and grants authorized by the Environmental Management Commission; and itemized and total allocations from the Water Supply Accounts of revolving loans and grants authorized by the Division of Environmental Health. The Office of State Budget and Management Department of Environment, Health, and Natural Resources shall also prepare a summary report of all allocations made from the Clean Water Revolving Loan and Grant Fund for each fiscal year; the total funds received and allocations made; and unallocated funds on hand in each account as of the end of the preceding fiscal year.~~

(c) Environmental Management Commission and Division of Environmental Health. – The portions of the report prepared by the Environmental Management Commission and the Division of Environmental Health shall include:

- (1) Identification of each revolving loan and grant made by the receiving agency during the preceding fiscal year; the total amount of the revolving loan and grant commitments; the sums actually paid during the preceding fiscal year to each revolving loan and grant made and to each revolving loan and grant previously committed but unpaid; and the total revolving loan and grant funds paid during the preceding fiscal year.
- ~~(2) Itemization of expenditures of any administrative expense funds allocated from the Administrative Account during the preceding fiscal year.~~
- (3) Summarization for all preceding years of the total number of revolving loans and grants made; the total funds committed to such revolving loans and grants; and the total sum actually paid to such revolving loans and grants; ~~and the total expenditure of administrative expense funds allocated from the Administrative Account.~~
- (4) Assessment and evaluation of the effects that approved projects have had upon water pollution control and water supplies within the purposes of this Chapter and with relation to the total water pollution control and water supply problem.

(d) The report shall be signed by each of the chief executive officers of the State agencies preparing the report."

Sec. 10. G.S. 159G-18(a) reads as rewritten:

"(a) Local government units may execute debt instruments payable to the State in order to obtain revolving loans provided for in this Chapter. Local government units shall pledge as security for such obligations the user fee revenues derived from operation of the benefited facilities or systems only, or their faith and credit, or both. The faith and credit of such local government units shall not be pledged or be deemed to have been pledged unless the requirements of Article 4, Chapter 159 of the General Statutes have been met. ~~The Office of State Budget and Management and the State Treasurer, with the assistance of the Local Government Commission, shall develop and adopt appropriate debt instruments for use under this Chapter. The Local Government~~

Commission shall develop and adopt appropriate procedures for the delivery of debt instruments to the State without any public bidding therefor."

Sec. 11. This act is effective upon ratification.

In the General Assembly read three times and ratified this the 3rd day of June, 1991.

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James C. Gardner  
President of the Senate

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Daniel Blue, Jr.  
Speaker of the House of Representatives