

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

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HOUSE BILL 900

Short Title: Nitrogen Limit/Clean Water Fund Mod.

(Public)

Sponsors: Representatives Watson; Hill and Nichols.

Referred to: Environment, if favorable, Appropriations.

April 8, 1997

A BILL TO BE ENTITLED

1 AN ACT TO IMPROVE THE WATER QUALITY OF THE SURFACE WATERS OF
2 THIS STATE BY FURTHER LIMITING THE AMOUNT OF NITROGEN THAT
3 CERTAIN LARGE FACILITIES DISCHARGE TO NUTRIENT SENSITIVE
4 WATERS WHERE NITROGEN IS A NUTRIENT OF CONCERN, TO
5 AUTHORIZE THE USE OF UP TO TWENTY-FIVE PERCENT OF THE FUNDS
6 IN THE CLEAN WATER MANAGEMENT TRUST FUND FOR A PORTION OF
7 THE COSTS TO LOCAL GOVERNMENTS OF MODIFYING EXISTING
8 FACILITIES TO SATISFY THIS STRICTER LIMIT, AND TO AUTHORIZE THE
9 USE OF THE CLEAN WATER MANAGEMENT FUND FOR LOANS.
10

11 The General Assembly of North Carolina enacts:

12 Section 1. G.S. 143-215.1 is amended by adding a new subsection to read:

13 "(c1) Any person who is required to obtain a permit under this section for a facility
14 discharging to surface waters of the State that have been classified as nutrient sensitive
15 waters under rules adopted by the Commission and where nitrogen is determined by the
16 Commission to be a nutrient of concern shall not discharge more nitrogen, on a permitted
17 annual average basis expressed as pounds per day, than would result from a discharge
18 having a concentration of three and one-half milligrams of nitrogen per liter (3.5 mg/l)
19 times the volume of discharge that the permit for that facility allows that person to
20 discharge during the year that ended 31 December 1995. Any person subject to this

1 subsection shall monitor the facility's discharge for nitrogen at least weekly. This
2 subsection does not apply to facilities that have a design capacity to discharge less than
3 500,000 gallons per day. The Commission may adopt rules to implement this
4 subsection."

5 Section 2. G.S. 143-215.6A(a) is amended by adding a new subdivision to
6 read:

7 "(10) Violates G.S. 143-215.1(c1) or a rule adopted pursuant to G.S. 143-
8 215.1(c1)."

9 Section 3. G.S. 113-145.3 reads as rewritten:

10 **"§ 113-145.3. Clean Water Management Trust Fund: established.**

11 (a) Fund Established. – There is established a Clean Water Management Trust
12 Fund in the State Treasurer's Office that shall be used to finance projects to clean up or
13 prevent surface water pollution in accordance with this Article.

14 (b) Fund Earnings, Assets, and Balances. – The State Treasurer shall hold the
15 Fund separate and apart from all other moneys, funds, and accounts. Investment earnings
16 credited to the assets of the Fund shall become part of the Fund. Any balance remaining
17 in the Fund at the end of any fiscal year shall be carried forward in the Fund for the next
18 succeeding fiscal year. Payments from the Fund shall be made on the warrant of the Chair
19 of the Board of Trustees.

20 (c) Fund Purposes. – Moneys from the Fund may be used for any of the following
21 purposes:

22 (1) To acquire land for riparian buffers for the purposes of providing
23 environmental protection for surface waters and urban drinking water
24 supplies and establishing a network of riparian greenways for
25 environmental, educational, and recreational uses.

26 (2) To acquire conservation easements or other interests in real property for
27 the purpose of protecting and conserving surface waters and urban
28 drinking water supplies.

29 (3) To coordinate with other public programs involved with lands adjoining
30 water bodies to gain the most public benefit while protecting and
31 improving water quality.

32 (4) To restore previously degraded lands to reestablish their ability to
33 protect water quality.

34 (5) To repair failing waste treatment systems if: (i) an application has first
35 been submitted to receive a loan or grant from the Clean Water
36 Revolving Loan and Grant Fund and the application was denied during
37 the latest review cycle; (ii) the repair is a reasonable remedy for
38 resolving an existing waste treatment problem; and (iii) the repair is not
39 for the purpose of expanding the system to accommodate future
40 anticipated growth of a community. Priority shall be given to
41 economically distressed units of local government.

42 (6) To repair and eliminate failing septic tank systems, to eliminate illegal
43 drainage connections, and to expand waste treatment systems if the

1 system is being expanded as a remedy to eliminate failing septic tank
2 systems or illegal drainage connections. Priority shall be given to
3 economically distressed units of local government.

4 (7) To improve stormwater controls and management practices.

5 (8) To facilitate planning that targets reductions in surface water pollution.

6 (9) To fund operating expenses of the Board of Trustees and its staff.

7 (10) To modify an existing permitted wastewater treatment facility that is
8 owned or operated by a unit of local government and that is subject to
9 G.S. 143-215.1(c1) to enable the unit of local government to comply
10 with G.S. 143-215.1(c1).

11 (d) ~~Limit on Operating and Administrative Expenses.~~ Limitations on Uses of Fund. –

12 No more than two percent (2%) of the annual balance of the Fund on July 1 or a total sum
13 of eight hundred fifty thousand dollars (\$850,000), whichever is less, may be used each
14 fiscal year for administrative and operating expenses of the Board of Trustees and its
15 staff. No more than twenty-five percent (25%) of the amount credited to the Fund during
16 the year ending 30 June shall be used as provided by subdivision (10) of subsection (c) of
17 this section."

18 Section 4. G.S. 113-145.4 reads as rewritten:

19 "**§ 113-145.4. Clean Water Management Trust Fund: eligibility for grants; ~~loans or~~**
20 **grants; grant matching funds or property requirement. funds; loan limit.**

21 (a) ~~Eligible Grant Applicants.~~ – Any of the following are eligible to apply for a
22 loan or grant from the Fund for the purpose of protecting and enhancing water quality:

23 (1) A State agency.

24 (2) A local government or other political subdivision of the State or a
25 combination of such entities.

26 (3) A nonprofit corporation whose primary purpose is the conservation,
27 preservation, and restoration of our State's environmental and natural
28 resources.

29 (b) Grant Matching Requirement. – The Board of Trustees shall establish
30 matching requirements for grants awarded under this Article. ~~The For all eligible projects~~
31 or activities other than projects eligible under G.S. 113-145.3(c)(10), the Board of
32 Trustees may require a match of up to twenty percent (20%) of the amount of the grant
33 awarded. For projects eligible under G.S. 113-145.3(c)(10), the Board of Trustees may
34 require a match of up to fifty percent (50%) of the amount of the grant awarded. This
35 requirement may be satisfied by the donation of land to a public or private nonprofit
36 conservation organization as approved by the Board of Trustees. The Board of Trustees
37 may also waive the requirement to match a grant pursuant to guidelines adopted by the
38 Board of Trustees.

39 (b1) Loan Limit. – The Board of Trustees shall establish requirements regarding
40 limits on loans provided under this Article. The Board of Trustees may require that the
41 maximum principal amount of a loan not exceed eighty percent (80%) of the nonfederal
42 share of the costs of any eligible project or activity. This requirement may be satisfied by
43 the donation of land to a public or private nonprofit conservation organization as

1 approved by the Board of Trustees. The Board of Trustees may also waive the
2 requirement to limit loans pursuant to guidelines adopted by the Board of Trustees.

3 (c) ~~Grants~~ Loans or Grants Not Available to Satisfy Compensatory Mitigation
4 Requirements. – No loan and no grant shall be ~~awarded~~ provided under this ~~article~~ Article
5 to satisfy compensatory mitigation requirements under 33 ~~USC~~ U.S.C. § 1344 or G.S.
6 143-214.11."

7 Section 5. G.S. 113-145.6 reads as rewritten:

8 **"§ 113-145.6. Clean Water Management Trust Fund Board of Trustees: powers and**
9 **duties.**

10 (a) Allocate Loan and Grant Funds. – The Trustees shall allocate moneys from the
11 Fund as loans or grants. A loan or grant may be ~~awarded~~ provided only for a project or
12 activity that satisfies the criteria and furthers the purposes of this Article.

13 (b) Develop ~~Grant~~ Criteria. – The Trustees shall develop criteria for ~~awarding~~
14 providing loans and grants under this Article. The criteria developed shall include
15 consideration of the following:

16 (1) The significant enhancement and conservation of water quality in the
17 State.

18 (2) The objectives of the basinwide management plans for the State's river
19 basins and watersheds.

20 (3) The promotion of regional integrated ecological networks insofar as
21 they affect water quality.

22 (4) The specific areas targeted as being environmentally sensitive.

23 (5) The geographic distribution of funds as appropriate.

24 (6) The preservation of water resources with significant recreational or
25 economic value and uses.

26 (7) The development of a network of riparian buffer-greenways bordering
27 and connecting the State's waterways that will serve environmental,
28 educational, and recreational uses.

29 (c) Develop Additional Guidelines. – The Trustees may develop guidelines in
30 addition to the loan and grant criteria consistent with and as necessary to implement this
31 Article.

32 (d) Acquisition of Land. – The Trustees may acquire land by purchase,
33 negotiation, gift, or devise. Any acquisition of land by the Trustees must be reviewed and
34 approved by the Council of State and the deed for the land subject to approval of the
35 Attorney General before the acquisition can become effective. In determining whether to
36 acquire land as permitted by this Article, the Trustees shall consider whether the
37 acquisition furthers the purposes of this Article and may also consider recommendations
38 from the Council. Nothing in this section shall allow the Trustees to acquire land under
39 the right of eminent domain.

40 (e) Exchange of Land. – The Trustees may exchange any land they acquire in
41 carrying out the powers conferred on the Trustees by this Article.

42 (f) Land Management. – The Trustees may designate managers or managing
43 agencies of the lands acquired under this Article.

1 (g) Tax Credit Certification. – The Trustees shall develop guidelines to determine
2 whether land donated for a tax credit under G.S. 105-130.34 or G.S. 105-151.12 are
3 suitable for one of the purposes under this Article and may be certified for a tax credit.

4 (h) Rule-making Authority. – The Trustees may adopt rules to implement this
5 Article. Chapter 150B of the General Statutes applies to the adoption of rules by the
6 Trustees.

7 (i) The Chair of the Board of Trustees of the Clean Water Management Trust
8 Fund shall report to the Environmental Review Commission beginning November 1,
9 1996, and annually thereafter on implementation of this section. A written copy of the
10 report shall also be sent to the Fiscal Research Division of the General Assembly
11 beginning November 1, 1996, and annually thereafter on implementation of this section."

12 Section 6. By 1 November 1997, the Environmental Management Commission
13 shall develop a schedule of dates between 1 November 1997, and 1 January 2005, by
14 which existing facilities must comply with G.S. 143-215.1(c1), as enacted by Section 1 of
15 this act. The schedule of compliance dates shall follow as closely as possible the dates on
16 which permits for existing facilities must be renewed. New facilities and expansions of
17 existing facilities for which an application for a permit is received by the Department of
18 Environment, Health, and Natural Resources on behalf of the Environmental
19 Management Commission prior to the date this act becomes effective shall be treated as
20 existing facilities.

21 Section 7. This act is effective when it becomes law.