

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005**

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SENATE BILL 1091

Short Title: Clean Water Act of 2005.

(Public)

Sponsors: Senator Kerr.

Referred to: Agriculture/Environment/Natural Resources.

March 24, 2005

A BILL TO BE ENTITLED

1 AN ACT TO PROVIDE FUNDING TO ADDRESS THE CRITICAL
2 INFRASTRUCTURE NEEDS RELATING TO WATER SUPPLY SYSTEMS,
3 WASTEWATER COLLECTION SYSTEMS, WASTEWATER TREATMENT
4 WORKS, AND WATER CONSERVATION AND WATER REUSE PROJECTS;
5 TO MAKE VARIOUS AMENDMENTS TO THE NORTH CAROLINA CLEAN
6 WATER REVOLVING LOAN AND GRANT ACT INCLUDING THE
7 FOLLOWING: EXPAND BOTH THE PROJECTS AND APPLICANTS THAT
8 ARE ELIGIBLE TO RECEIVE LOANS AND GRANTS FROM THE
9 REVOLVING LOAN AND GRANT FUND, ALLOW THE DEPARTMENT OF
10 ENVIRONMENT AND NATURAL RESOURCES TO SET LOWER INTEREST
11 RATES AND EXTEND REPAYMENT TERMS TO THIRTY YEARS OF THE
12 EXPECTED LIFE OF A PROJECT, TO DIRECT THE DEPARTMENT TO
13 NEGOTIATE WITH THE ENVIRONMENTAL PROTECTION AGENCY TO
14 DEVELOP AN INTEGRATED PRIORITY SYSTEM THAT WILL ADDRESS
15 BOTH POINT AND NONPOINT SOURCE WASTEWATER PROJECTS AND
16 TO MAKE OTHER CLARIFYING, TECHNICAL, AND CONFORMING
17 CHANGES; TO CLARIFY THAT STORMWATER PLANNING PROJECTS
18 AND WATER SUPPLY PLANNING PROJECTS ARE PURPOSES THAT MAY
19 BE FUNDED BY THE CLEAN WATER MANAGEMENT TRUST FUND; AND
20 TO ESTABLISH THE RURAL CENTER WATER SUPPLY AND
21 WASTEWATER TREATMENT FUND TO BE ADMINISTERED BY THE
22 RURAL ECONOMIC DEVELOPMENT CENTER AND TO BE USED TO
23 AWARD LOANS AND GRANTS TO LOCAL GOVERNMENTS, PUBLIC
24 SYSTEMS, AND PRIVATE NONPROFIT SYSTEMS FOR WATER SUPPLY
25 SYSTEMS, WASTEWATER TREATMENT SYSTEMS, AND STORMWATER
26 PROJECTS.
27

28 The General Assembly of North Carolina enacts:

29 **SECTION 1.** G.S. 105-228.30 reads as rewritten:

1 **"§ 105-228.30. Imposition of excise tax; distribution of proceeds.**

2 (a) An excise tax is levied on each instrument by which any interest in real
3 property is conveyed to another person. The tax rate is one dollar (\$1.00) on each ~~five~~
4 ~~hundred dollars (\$500.00)~~ two hundred fifty dollars (\$250.00) or fractional part thereof
5 of the consideration or value of the interest conveyed. The transferor must pay the tax to
6 the register of deeds of the county in which the real estate is located before recording
7 the instrument of conveyance. If the instrument transfers a parcel of real estate lying in
8 two or more counties, however, the tax must be paid to the register of deeds of the
9 county in which the greater part of the real estate with respect to value lies.

10 The excise tax on instruments imposed by this Article applies to timber deeds and
11 contracts for the sale of standing timber to the same extent as if these deeds and
12 contracts conveyed an interest in real property.

13 (b) The register of deeds of each county must remit the proceeds of the tax levied
14 by this section to the county finance officer. The finance officer of each county must
15 credit ~~one-half~~ one-quarter of the proceeds to the county's general fund and remit the
16 remaining ~~one-half~~ three-quarters of the proceeds, less the county's allowance for
17 administrative expenses, to the Department of Revenue on a monthly basis. A county
18 may retain ~~two percent (2%)~~ one percent (1%) of the amount of tax proceeds allocated
19 for remittance to the Department of Revenue as compensation for the county's cost in
20 collecting and remitting the State's share of the tax. ~~Of the funds remitted to it pursuant~~
21 ~~to this section, the Department of Revenue must credit seventy five percent (75%) to the~~
22 ~~Parks and Recreation Trust Fund established under G.S. 113-44.15 and twenty five~~
23 ~~percent (25%) to the Natural Heritage Trust Fund established under G.S. 113-77.7.~~ The
24 Department of Revenue must credit the funds remitted to it pursuant to this section as
25 follows:

- 26 (1) Forty-three and thirty-four one-hundredths percent (43.34%) to the
27 Clean Water and Drinking Water Revolving Loan and Grant Fund
28 established under Chapter 159G of the General Statutes.
29 (2) Twenty-five percent (25%) to the Parks and Recreation Trust Fund
30 established under G.S. 113-44.15.
31 (3) Twenty percent (20%) to the Rural Center Water Supply and
32 Wastewater Treatment Fund established under Chapter 159H of the
33 General Statutes.
34 (4) Eight and thirty-three one-hundredths percent (8.33%) to the Natural
35 Heritage Trust Fund established under G.S. 113-77.7.
36 (5) Three and thirty-three one-hundredths percent (3.33%) to the Clean
37 Water Management Trust Fund established under Article 18 of
38 Chapter 113A of the General Statutes to be used for stormwater
39 planning projects and water supply planning projects only."

40 **SECTION 2.** Chapter 159G of the General Statutes reads as rewritten:

41 **"Chapter 159G.**

42 **"North Carolina Clean Water and Drinking Water Revolving Loan and Grant Act**
43 **of 1987-Act.**

44 **"§ 159G-1. Short title.**

1 This Chapter shall be known and may be cited as the "North Carolina Clean Water
2 and Drinking Water Revolving Loan and Grant Act of 1987-Act.

3 **"§ 159G-2. Purpose.**

4 The General Assembly hereby recognizes that a critical need exists in this State to
5 provide for a low-interest funding source for ~~municipal~~ water and wastewater capital
6 facilities. Local government efforts to meet this need have been restricted by the
7 inability of many units to finance necessary improvements to inadequate or nonexistent
8 water supply and wastewater treatment systems. The decrease in financial capacity has
9 resulted in large part from the diminished availability of federal loans and grants and the
10 elimination of the federal general revenue sharing program, which funded a wide range
11 of local capital improvements.

12 The problems have been further complicated by the uncertainty concerning Clean
13 Water Act funding, the growing number of local units which are under moratoriums
14 against additional connections for sewer service, and the July 1, 1988, deadline for
15 compliance with federal effluent standards.

16 It is the intent and purpose of the General Assembly by this Chapter to create a
17 program to facilitate early construction of these environmental and public health
18 improvements by establishing a revolving loan fund for financing such projects. This
19 fund will enable ~~local government units~~ wastewater and drinking water systems to obtain
20 low-interest loans for financing infrastructure projects ~~for wastewater treatment~~ and for
21 certain emergency purposes. This fund will also enable ~~local government units and~~
22 ~~nonprofit water corporations~~ eligible systems to obtain low-interest loans for financing
23 projects for water ~~supply~~ supply facilities, wastewater facilities, and to address
24 stormwater quality and other nonpoint sources of pollution. It is the further intent and
25 purpose of the General Assembly to provide grants to ~~local government units~~ eligible
26 systems for wastewater treatment and ~~to provide grants to local government units and~~
27 ~~nonprofit water corporations~~ for water supply facilities. The General Assembly seeks by
28 this Chapter to encourage and assist ~~local government units~~ wastewater and drinking
29 water systems to meet their responsibilities ~~to their citizens~~ to maintain a clean and
30 healthful environment and an abundant supply of pure safe drinking water and further to
31 provide an adequate base for economic growth.

32 **"§ 159G-3. Definitions.**

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

- 35 (1) Repealed by Session Laws 1991, c. 186, s. 1.
36 (2) "Applicant" means a local government unit or a nonprofit water or
37 wastewater corporation that is incorporated in compliance with
38 Chapter 55A of the General Statutes solely for the purpose of
39 providing drinking water or wastewater services and that is an eligible
40 applicant for a federal loan or grant from the Rural Utility Services
41 Division, U.S. Department of Agriculture that applies for a revolving
42 loan or grant under the provisions of this Chapter. In addition, a local
43 government may provide funds to a nonprofit agency which is
44 currently under contract and authorized to provide wastewater

1 treatment or drinking water supply services to that local government
2 unit. For purposes of the ~~Drinking Water Treatment Revolving Loan~~
3 ~~Fund established by G.S. 159G 5(d), "applicant" also means a~~
4 ~~nonprofit water corporation that is incorporated in compliance with~~
5 ~~Chapter 55A of the General Statutes solely for the purpose of~~
6 ~~providing community water or community water and wastewater and~~
7 ~~that is eligible for a federal loan or a federal loan and grant from the~~
8 ~~Rural Utility Services Division, U.S. Department of Agriculture.~~

9 (2a) "Bond rating" means the numerical rating of a local government unit
10 developed by the North Carolina Municipal Council, Inc., or any
11 successor thereto. The rating formula is based on 100 being a
12 theoretically "perfect" local government unit and is an assessment of
13 the creditworthiness of the unit. Local government units with a rating
14 below 75 or with no ratings have limited, if any, access to the private
15 markets for financing water and sewer or other debt.

16 (3) "Clean Water and Drinking Water Revolving Loan and Grant Fund"
17 means the fund established in the Department of Environment and
18 Natural Resources to carry out the provisions of this Chapter, with
19 various accounts therein as herein provided.

20 (4) "Construction costs" means the actual costs of planning, designing and
21 constructing any project for which a revolving loan or grant is made
22 under this Chapter including planning; environmental assessment;
23 wastewater system analysis, evaluation and rehabilitation; engineering;
24 legal, fiscal, administrative and contingency costs for water supply
25 systems, wastewater collection systems, stormwater quality projects,
26 nonpoint source pollution projects, wastewater treatment works and
27 any extensions, improvements, remodeling, additions, or alterations to
28 existing systems. Construction costs may include excess or reserve
29 capacity costs, attributable to no more than 20-year projected domestic
30 growth, plus ten percent (10%) unspecified industrial growth. In
31 addition, construction costs shall include any fees payable to the
32 ~~Environmental Management Commission or the Division of~~
33 ~~Environmental Health~~Department of Environment and Natural
34 Resources for review of applications and grant of permits, and fees for
35 inspections under G.S. 159G-14. Construction costs may also include
36 the costs for purchase or acquisition of real property.

37 (4a) "Department" means the Department of Environment and Natural
38 Resources.

39 (5) "Grant" means a sum of money given by the State to an applicant to
40 subsidize the construction costs of a project authorized by this Chapter,
41 without any obligation on the part of such unit to repay such sum.

42 (6) "Commission for Health Services" means the Commission for Health
43 Services created by G.S. 130A-29.

- 1 (6a) "Debt instrument" means an instrument in the nature of a promissory
2 note executed by an applicant under the provisions of this Chapter, to
3 evidence a debt to the State and obligation to repay the principal, plus
4 interest, under stated terms.
- 5 (7) "Division of Environmental Health" means the Division of
6 Environmental Health of the Department of Environment and Natural
7 Resources.
- 8 (7a) "Economically distressed local government unit" means a local
9 government unit located, in whole or in part, in a county designated as
10 economically distressed by the Secretary of Commerce under
11 G.S. 143B-437A.
- 12 (8) "Environmental Management Commission" means the Environmental
13 Management Commission of the Department of Environment and
14 Natural Resources.
- 15 (9) "Local Government Commission" means the Local Government
16 Commission of the Department of the State Treasurer, established by
17 Article 2 of Chapter 159 of the General Statutes.
- 18 (10) "Local government unit" means a county, city, town, incorporated
19 village, consolidated city-county, as defined by G.S. 160B-2(1),
20 including such a consolidated city-county acting with respect to an
21 urban service district defined by a consolidated city-county, sanitary
22 district, metropolitan sewerage district, metropolitan water district,
23 county water and sewer district, water and sewer authority, joint
24 agency authorized by agreement between two cities and towns to
25 operate an airport pursuant to G.S. 63-56 and that also provided water
26 and wastewater services off the airport premises before January 1,
27 1995, joint agency created pursuant to Part 1 of Article 20 of Chapter
28 160A of the General Statutes, or the Eastern Band of Cherokee Indians
29 in North Carolina.
- 30 (11) Repealed by Session Laws 1991, c. 186, s. 1.
- 31 (12) "Receiving agency" means the Division of Environmental Health with
32 respect to receipt of applications for revolving loans and grants for
33 water supply systems, and ~~the Environmental Management~~
34 ~~Commission~~ and the Division of Water Quality with respect to receipt
35 of applications for revolving loans and grants for wastewater systems.
- 36 (13) "Revolving construction loan" means a sum of money loaned by the
37 State to an applicant to subsidize the construction costs of a project
38 authorized by this Chapter, with an obligation on the part of the
39 applicant to repay such sum, the proceeds of such repayment to be
40 deposited in the fund from which the loan was made.
- 41 (14) "Revolving emergency loan" means a sum of money loaned by the
42 State to a local government unit upon a certification, as provided in
43 this Chapter, of a serious public health hazard, with an obligation on
44 the part of such unit to repay such sum.

- 1 (15) "Revolving loan" includes a revolving construction loan and an
2 emergency loan.
- 3 (15a) "State" means the State of North Carolina.
- 4 (15b) "State Treasurer" means the Treasurer of the State elected pursuant to
5 Article III, Section 7 of the Constitution or his designated
6 representative.
- 7 (16) "Wastewater Accounts" means the various accounts in the Clean
8 Water and Drinking Water Revolving Loan and Grant Fund
9 established in the Department of Environment and Natural Resources
10 under this Chapter for revolving loans and grants for wastewater
11 treatment work and wastewater collection system projects.
- 12 (17) "Wastewater collection system" means a unified system of pipes,
13 conduits, pumping stations, force mains, and appurtenances other than
14 interceptor sewers, for collecting and transmitting water-carried human
15 wastes and other wastewater from residences, industrial establishments
16 or any other ~~buildings, and owned by a local government~~
17 ~~unit~~buildings.
- 18 (18) "Wastewater treatment works" means the various facilities and devices
19 used in the treatment of sewage, industrial waste or other wastes of a
20 liquid nature, including the necessary interceptor sewers, outfall
21 sewers, ~~phosphorus-nutrient~~ removal equipment, pumping, power and
22 other equipment and their appurtenances.
- 23 (19) "Water Supply Accounts" means the various accounts in the Clean
24 Water and Drinking Water Revolving Loan and Grant Fund
25 established in the Department of Environment and Natural Resources
26 under this Chapter for revolving loans and grants for water supply
27 system projects.
- 28 (20) "Water supply system" means a public water ~~supply~~ system as defined
29 in G.S. 130A-313 consisting of facilities and works for supplying,
30 treating and distributing potable water including, but not limited to,
31 impoundments, reservoirs, wells, intakes, water filtration plants and
32 other treatment facilities, tanks and other storage facilities,
33 transmission mains, distribution piping, pipes connecting the system to
34 other public water ~~supply~~ systems, pumping equipment and all other
35 necessary appurtenances, equipment and structures.

36 **"§ 159G-4. Appropriations.**

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

41 ~~(b) Of the appropriations made from the General Fund to the Clean Water~~
42 ~~Revolving Loan and Grant Fund for use of the Department of Environment and Natural~~
43 ~~Resources as provided in this Chapter, allocations are made as follows after first~~

1 subtracting the amounts allocated under subsection (a) of this section, to the extent that
 2 there are any excess funds available:

3 ~~Wastewater Accounts~~

4 ~~General Wastewater Revolving~~

5 ~~Loan Account 39.00%~~

6 ~~Emergency Wastewater Revolving~~

7 ~~Loan Account 10.00%~~

8 ~~High Unit Cost Wastewater~~

9 ~~Account 20.00%~~

10 ~~Water Supply Accounts~~

11 ~~General Water Supply~~

12 ~~Revolving Loan Account 21.00%~~

13 ~~High Unit Cost Water Supply~~

14 ~~Account 5.00%~~

15 ~~Emergency Water Supply Revolving~~

16 ~~Loan Account 5.00%~~

17 (c) All payments of interest and repayments of principal resulting from revolving
 18 loans shall be credited to the respective accounts from which the revolving loan funds
 19 were disbursed. Terms and conditions for repayment of revolving loans shall be
 20 established by the ~~Department of Environment and Natural Resources, Department,~~ with
 21 the assistance of the Local Government Commission, consistent with the requirements
 22 of the Federal Water Pollution Control ~~Act~~ Act, the Federal Safe Drinking Water Act,
 23 and this Chapter. Provided, the interest rate for all revolving loans authorized by this
 24 Chapter shall be fixed at the same percent per annum as the interest rate fixed under the
 25 Federal Water Pollution Control Act for loans from the Water Pollution Control
 26 Revolving Fund established by G.S. 159G-5(e), not to exceed the lesser of four percent
 27 (4%) or one half (1/2) the prevailing national market rate for tax exempt general
 28 obligation debt of similar maturities derived from a published indicator. Provided
 29 further, the interest rate may be fixed at a lower rate per annum and the maximum
 30 maturity may not exceed the lesser of 30 years or the project's expected life if
 31 authorized by the Federal Water Pollution Control Act ~~Regulations~~ or the Federal Safe
 32 Drinking Water Act. It is the intent of the General Assembly to provide uniform interest
 33 payments for all loans made to applicants irrespective of the account from which loans
 34 are made for either wastewater or water supply projects.

35 "**§ 159G-5. Clean Water and Drinking Water Revolving Loan and Grant Fund.**

36 (a) There is established in the ~~Department of Environment and Natural~~
 37 ~~Resources~~ Department a fund to be known as the Clean Water and Drinking Water
 38 Revolving Loan and Grant Fund. The Fund is to be administered by the ~~Department of~~
 39 ~~Environment and Natural Resources~~ Department which shall be responsible for receipt
 40 and disbursement of all moneys as appropriated and provided for in this Chapter.

41 (b) Funds in the various accounts in the Clean Water and Drinking Water
 42 Revolving Loan and Grant Fund may be invested in the same manner as permitted for
 43 investments of funds belonging to the State or held in the State Treasury. Interest

1 earnings derived from such investments shall be credited to the respective accounts
2 from which funds were used to make such investments.

3 (c) Within the Clean Water and Drinking Water Revolving Loan and Grant Fund
4 there shall be a special account known as the Water Pollution Control Revolving Fund.
5 This account shall be established and managed in accordance with the requirements of
6 Title VI of the Federal Water Quality Act of 1987 (P.L. 100-4), to achieve the purposes
7 and goals of the Federal Water Pollution Control Act. The funds in the Water Pollution
8 Control Revolving Fund shall be available in perpetuity and exclusively for the purpose
9 of providing revolving construction loans and other assistance as specified in Title VI of
10 the Federal Water Quality Act of 1987 and the regulations thereunder, including making
11 grants to the extent permitted thereby.

12 (d) The Drinking Water Treatment Revolving Loan Fund is established as a
13 special account within the Clean Water and Drinking Water Revolving Loan and Grant
14 Fund. This account shall be established and managed in accordance with the
15 requirements of section 130 of Title I of the federal Safe Drinking Water Act of 1996
16 and subsequent amendments ~~Amendments of 1996~~ (Pub. L. 104-182; 110 Stat. 1662; 42
17 U.S.C. § 300j-12), to achieve the purposes and goals of the federal Safe Drinking Water
18 Act of 1996 and subsequent ~~Amendments of 1996.~~ amendments. The funds in the
19 Drinking Water Treatment Revolving Loan Fund may be used only for the purposes of
20 providing revolving construction loans and other assistance as set forth in section 130 of
21 Title I of the federal Safe Drinking Water Act of 1996 and subsequent amendments
22 ~~Amendments of 1996~~ and the regulations promulgated thereunder, including making
23 grants to the extent permitted by these amendments or these regulations.

24 **"§ 159G-6. Distribution of funds.**

25 (a) Revolving loans and grants.

26 (1) All funds appropriated or accruing to the Clean Water and Drinking
27 Water Revolving Loan and Grant Fund, other than funds set aside for
28 administrative expenses, shall be used for revolving loans and grants to
29 applicants for construction costs of wastewater treatment works,
30 wastewater collection systems and water supply systems and other
31 assistance as provided in this Chapter.

32 (2) The maximum principal amount of a revolving loan or a grant may be
33 one hundred percent (100%) of the nonfederal share of the
34 construction costs of any eligible project. The maximum principal
35 amount of revolving loans made to any one applicant during any fiscal
36 year shall be eight million dollars (\$8,000,000).

37 (2a) The maximum principal amount of grants made to any applicant over a
38 period of three fiscal years shall be three million dollars (\$3,000,000).
39 The ~~Department of Environment and Natural Resources~~Department
40 may limit the maximum principal amount of a grant under this
41 subdivision to two million dollars (\$2,000,000) or two-thirds of the
42 eligible project cost, whichever is less, when the bond rating of the
43 local government unit equals or is greater than 75 during any fiscal
44 year and when one million dollars (\$1,000,000) or one-third of the

1 eligible project cost, whichever is less, is available to the local
2 government unit as a loan from any source.

3 (2b) Notwithstanding G.S. 159G-6(a)(2a), the maximum principal amount
4 of grants made to any applicant for a high-unit cost wastewater project
5 under G.S. 159G-6(b)(2) during any fiscal year shall be three million
6 dollars (\$3,000,000) if the applicant is a sewer district that includes
7 three or more local government units. Notwithstanding
8 G.S. 159G-6(a)(2a), the maximum principal amount of grants made to
9 any applicant for a high-unit cost water supply system under
10 G.S. 159G-6(c)(2) during any fiscal year shall be three million dollars
11 (\$3,000,000) if the applicant is either: (i) a water district that includes
12 three or more local government units, or (ii) a county in which less
13 than fifty percent (50%) of the population of the county is served by a
14 public water system that is owned or operated by a local government
15 unit or a nonprofit water corporation.

16 (3) The State Treasurer shall be responsible for investing and distributing
17 all funds appropriated or accruing to the Clean Water and Drinking
18 Water Revolving Loan and Grant Fund for revolving loans and grants
19 under this Chapter. In fulfilling his responsibilities under this section,
20 the State Treasurer shall make a written request to the ~~Department of~~
21 ~~Environment and Natural Resources~~Department to arrange for the
22 appropriated funds to be (i) transferred from the appropriate accounts
23 to an applicant to provide funds for one or more revolving loans or
24 grants or (ii) invested as authorized by this Chapter with the interest on
25 and the principal of such investments to be transferred to the applicant
26 to provide funds for one or more revolving loans or grants.

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

33 (1) General Wastewater Revolving Loan and Grant Account. – The funds
34 in the General Wastewater Revolving Loan and Grant Account shall
35 be used exclusively for the purpose of providing for revolving
36 construction loans or grants in connection with approved wastewater
37 treatment work or wastewater collection system projects.

38 (2) High-Unit Cost Wastewater Account. – The funds in the High-Unit
39 Cost Wastewater Account shall be available for grants to applicants for
40 high-unit cost wastewater projects. Eligibility of an applicant for such
41 a grant shall be determined by comparing estimated average household
42 user fees for water and sewer service, for debt service and operation
43 and maintenance costs, to one and one-half percent (1.5%) of the
44 median household income in the local government unit or service area

1 in which the project is located. The projects which would require
2 estimated average household water and sewer user fees greater than
3 one and one-half percent (1.5%) of the median household income are
4 defined as high-unit cost wastewater projects and will be eligible for a
5 grant equal to the excess cost, subject to the limitations in subdivision
6 (a)(2) of this section. However, if the applicant upon completion of the
7 project will have only a single utility service, then the eligibility of the
8 applicant for such a grant shall be determined by comparing estimated
9 average household user fees for the single utility service that will be
10 offered, for debt service and operation and maintenance costs, to
11 three-fourths percent (3/4%) of the median household income in the
12 local government unit or service area in which the project is located.
13 The single utility projects which would require estimated average
14 household water or sewer user fees (as appropriate) greater than
15 three-fourths percent (3/4%) of the median household income are
16 defined as high-unit cost wastewater projects and will be eligible for a
17 grant equal to the excess cost, subject to the limitations in subdivision
18 (a)(2) of this section.

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

25 (c) Water Supply Accounts. – The sums ~~allocated in G.S. 159G-4 and~~ accruing
26 to the various Water Supply Accounts in each fiscal year shall be used to provide
27 revolving loans and grants to applicants as provided below. The ~~Department of~~
28 ~~Environment and Natural Resources~~Department shall disburse no funds from the Water
29 Supply Accounts except upon receipt of written approval of the disbursement from the
30 Secretary of Environment and Natural Resources.

31 (1) General Water Supply Revolving Loan and Grant Account. – The
32 funds in the General Water Supply Revolving Loan and Grant Account
33 shall be used exclusively for the purpose of providing for revolving
34 construction loans and grants in connection with water supply systems
35 generally and not upon a county allotment basis.

36 (2) High-Unit Cost Water Supply Account. – The funds in the High-Unit
37 Cost Water Supply Account shall be available for grants to applicants
38 for high-unit cost water supply systems, on the same basis as provided
39 in G.S. 159G-6(b)(2) for high-unit cost wastewater projects.

40 (3) Emergency Water Supply Revolving Loan Account. – The funds in the
41 Emergency Water Supply Revolving Loan Account shall be available
42 for revolving emergency loans to applicants in the event the Secretary
43 of Environment and Natural Resources certifies either that a serious
44 public health ~~hazard, related to the water supply system,~~hazard or that

1 a drought emergency related to the water supply system is present or
2 imminent in a community.

- 3 (4) ~~Inter-Account Transfers. – The Department of Environment and~~
4 ~~Natural Resources~~Department may transfer funds from the General
5 Water Supply Revolving Loan and Grant Account to the Emergency
6 Water Supply revolving Loan Account in the event that the Secretary
7 of Environment and Natural Resources certifies ~~that a drought~~
8 ~~emergency exists and that additional emergency funds are needed to~~
9 ~~assist water supply systems that are experiencing a drought~~
10 ~~emergency either that a serious public health hazard or drought~~
11 ~~emergency related to the water supply system is present or imminent in~~
12 a community.

13 (d) Repealed by Session Laws 1991, c. 186, s. 4.

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

18 "**§ 159G-7. Reserved for future codification purposes.**

19 "**§ 159G-8. Application; environmental assessment; notice; hearing.**

20 (a) Application. – All applications for revolving loans and grants for water
21 supply systems shall be filed with the Division of Environmental Health and all
22 applications for revolving loans and grants for wastewater treatment works or
23 wastewater collection systems shall be filed with the ~~Environmental Management~~
24 ~~Commission~~Division of Water Quality. Any application may be filed in as many
25 categories as it is eligible for consideration under this Chapter. Applications for
26 revolving construction loans or grants for wastewater treatment works and wastewater
27 collection systems, except applications for emergency wastewater loans, shall first be
28 submitted for a loan or grant from the Water Pollution Control Revolving Fund
29 established by G.S. 159G-5(c). If the application is denied, the application shall then be
30 considered for a revolving loan or a grant from the General Wastewater Revolving Loan
31 and Grant account established under G.S. 159G-6(b)(1).

32 ~~The Department of Environment and Natural Resources, the Commission for Health~~
33 ~~Services, and the Environmental Management Commission~~Department may develop
34 ~~jointly~~ and adopt a standard form of application under this Chapter. Any application for
35 construction grants under the Federal Water Pollution Control Act may be considered as
36 an application for revolving construction loans or grants under G.S. 159G-5(c) and
37 G.S. 159G-6(b)(1). The information required to be set forth in the application shall be
38 sufficient to permit the respective agencies to determine the eligibility of the applicant
39 and to establish the priority of the ~~application,~~ application using the criteria outlined in
40 G.S. 159G-10 and any other criteria deemed appropriate by the Department, as set forth
41 in this Chapter.

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

1 (b) Environmental Assessment. – Every applicant shall file with its application
2 an assessment setting forth the impact that the project for which funds are sought will
3 have upon the environment of the area within which the project is proposed to be
4 located. The assessment shall set forth the impact of the project upon water resources,
5 other natural resources, land use pattern, and such other factors as ~~the Commission for~~
6 ~~Health Services or the Environmental Management Commission shall require~~required
7 by duly adopted rules. Any environmental assessment required as part of an application
8 for grants under the Federal Water Pollution Control Act shall satisfy the requirement of
9 this provision. If, after reviewing the environmental assessment, the Division of
10 Environmental Health or the ~~Environmental Management Commission~~Division of
11 Water Quality concludes that an environmental impact statement is required, then the
12 application shall receive no further consideration until a final environmental impact
13 statement has been completed and approved as provided in Article 1 of Chapter 113A of
14 the General Statutes.

15 (c) Hearing. – A public hearing may be held by the receiving agency at any time
16 on any application filed pursuant to G.S. 159G-5(c), 159G-6(b), or 159G-6(c) in
17 accordance with the provisions of this subsection. A public hearing may be held by the
18 receiving agency upon written request from any citizen or taxpayer who is a resident of
19 the county or counties in which the project is proposed to be located if it appears that
20 the public interest will be served by this hearing. The written request shall set forth each
21 objection to the proposed project or other reason for requesting a hearing on the
22 application and shall contain the name and address of the person(s) submitting it. The
23 receiving agency may consider all written objections to the proposed project and other
24 statements along with the application, including any significant adverse effects that the
25 proposed project may have on the environment, and shall determine if the public interest
26 will be served by a hearing. The determination by the receiving agency shall be
27 conclusive; but all written requests for a hearing shall be retained as a permanent part of
28 the records pertaining to the application, whether or not the request is granted.

29 **"§ 159G-9. Eligibility.**

30 No application shall be eligible for a revolving loan or grant under this Chapter
31 unless it shall demonstrate to the satisfaction of the receiving agency that:

- 32 (1) The applicant is an applicant within the meaning of G.S. 159G-3(2).
- 33 (2) The applicant has the financial capacity to pay the principal of and the
34 interest on its proposed obligations and loans.
- 35 (3) The applicant has substantially complied or will substantially comply
36 with all applicable laws, rules, regulations and ordinances, federal,
37 State and local.
- 38 (4) The applicant has formally agreed ~~by official resolution~~ to adopt and
39 place into effect on or before completion of the project a schedule of
40 fees, charges, and other available funds, including but not limited to
41 the funds described in G.S. 159G-13(b), that will adequately provide
42 for proper operation, maintenance, and administration of the project
43 and for repayment of all principal of and interest on loans.

44 **"§ 159G-10. Priorities.**

1 (a) Determination. – Determination of priorities to be assigned each eligible
2 application shall be made ~~semiannually~~ by each receiving agency during each fiscal
3 year. Every eligible application filed under G.S. 159G-5(c), G.S. 159G-5(d),
4 ~~G.S. 159G-6(b)(1)~~G.S. 159G-6(b), or ~~G.S. 159G-6(e)(1)~~G.S. 159G-6(c) shall be
5 considered by the receiving agency with every other application filed under
6 G.S. 159G-5(c), G.S. 159G-5(d), ~~G.S. 159G-6(b)(1)~~G.S. 159G-6(b), or
7 ~~G.S. 159G-6(e)(1)~~G.S. 159G-6(c), respectively, and eligible for consideration during
8 the same priority period, to determine the priority to be assigned to each application.
9 ~~The same procedure shall apply to every eligible application filed under~~
10 ~~G.S. 159G-6(b)(3) and G.S. 159G-6(e)(3) of this Chapter.~~ Any application which does
11 not contain the information required by this Chapter or regulations adopted by the
12 receiving agency(s) shall not be deemed received until such information is furnished by
13 the applicant to the receiving agency.

14 (a1) (See note) Expired.

15 (b) Priority Factors. – All applications for revolving loans or grants under this
16 Chapter eligible for consideration during each priority period shall be assigned a priority
17 for funds by the receiving agency. ~~The priority factors shall be similar to those~~
18 ~~developed under the North Carolina Clean Water Bond Act of 1977, as provided in and~~
19 ~~modified by this subsection.~~The Department shall negotiate an integrated priority
20 system with the Environmental Protection Agency that will address the point and
21 nonpoint source pollution projects for the Water Pollution Control Revolving Fund for
22 applications filed under G.S. 159G-5(c). The following priority factors shall apply to
23 eligible applications filed semiannually under G.S. 159G-6(b) and G.S. 159G-6(c).
24 Complete applications received under G.S. 159G-6(b)(3) and G.S. 159G-6(c)(3) may be
25 considered for funding at any time by the receiving agency.

26 (1) General Criteria.—~~Criteria in Addition to Other Criteria Established~~
27 ~~by the Department. –~~

28 a. ~~The general criteria provided in 1 NCAC 22.0401 through~~
29 ~~.0403 on January 1, 1987, shall apply, except that 1 NCAC~~
30 ~~22.0401(c) shall apply only to State funds appropriated to~~
31 ~~match available federal funds.~~

32 b. The existence of a comprehensive land-use plan that meets the
33 requirements of subsection (e) of this section is a general
34 criterion for prioritizing which applicants will receive a loan or
35 grant. An applicant that is not authorized to adopt a
36 comprehensive land-use plan but that is located in whole or in
37 part in a local government unit that has adopted a
38 comprehensive land-use plan shall receive the same priority
39 treatment as an applicant that has authority to adopt a
40 comprehensive land-use plan. A comprehensive land-use plan
41 that meets the requirements of subsection (e) of this section and
42 that exceeds the minimum State standards for protection of
43 water resources shall receive more points than a plan that does
44 not exceed those standards. Additional points may be awarded

1 for actions taken toward implementation of a comprehensive
2 land-use plan. These actions may include the adoption of a
3 zoning ordinance or any other measure that significantly
4 contributes to the implementation of the comprehensive
5 land-use plan.

6 c. The existence of a flood hazard ordinance conforming to the
7 requirements of Part 6 of Article 21 of Chapter 143 of the
8 General Statutes is a general criterion for prioritizing which
9 applicants will receive a loan or a grant. Demonstration, based
10 on the most recent maps prepared pursuant to the National
11 Flood Insurance Program or approved by the Department, that
12 no portion of the applicant's jurisdiction is located within the
13 100-year floodplain is a general criterion equivalent to the
14 existence of a flood hazard ordinance conforming to the
15 requirements of Part 6 of Article 21 of Chapter 143 of the
16 General Statutes for prioritizing which applicants will receive a
17 loan or a grant.

18 (2) ~~Wastewater Treatment Work Projects. The priority criteria provided~~
19 ~~in 1 NCAC 22.0501 through .0506 on January 1, 1987, shall apply to~~
20 ~~applications for wastewater treatment work projects, except that 1~~
21 ~~NCAC 22.0503 shall not apply.~~

22 (3) ~~Wastewater Collection System Projects. The priority criteria~~
23 ~~provided in 1 NCAC 22.0601 through .0606 on January 1, 1987, shall~~
24 ~~apply to applications for wastewater collection system projects, except~~
25 ~~that 1 NCAC 22.0601(2)(a) and (3), and 1 NCAC 22.0605(2), (3) and~~
26 ~~(4) shall not apply.~~

27 (4) ~~Water Supply System Projects. The priority criteria provided in 1~~
28 ~~NCAC 22.0701 through .0704 on January 1, 1987, shall apply to~~
29 ~~applications for water supply system projects.~~

30 (5) Wastewater Treatment Works Improvements to Meet Nitrogen and
31 Phosphorus Limits. – The ~~Environmental Management~~
32 ~~Commission~~Department shall adopt a rule specifying priority criteria
33 for modifications to existing permitted wastewater treatment facilities
34 that are owned or operated by local government units and that are
35 subject to G.S. 143-215.1(c1) or G.S. 143-215.1(c2) to enable local
36 government units to comply with G.S. 143-215.1(c1) and
37 G.S. 143-215.1(c2).

38 (6) The total number of points available in the respective categories shall
39 be deemed adjusted in accordance with the provisions of subdivisions
40 (1) ~~through (5)~~ and (5) of this subsection.

41 (c) Assignment of Priority. – A written statement relative to each priority
42 assigned shall be prepared by the receiving agency and shall be attached to the
43 application. The priority assigned shall be conclusive.

1 (d) Failure to Qualify. – Any application filed under G.S. 159G-5(c),
2 G.S. 159G-5(d), G.S. 159G-6(b)–G.S. 159G-6(b), or G.S. 159G-6(c) that does not
3 qualify for a revolving loan or grant as of the priority period in which the application
4 was eligible for consideration by reason of the priority assigned the application shall be
5 considered for a revolving loan or grant during the next succeeding priority period upon
6 request of the applicant. If such application should again fail to qualify for a revolving
7 loan or grant during the second priority period by reason of the priority assigned, the
8 application shall receive no further consideration. An applicant may file a new
9 application at any time, and may amend any pending application to include additional
10 data or information.

11 (e) Land-Use Plan. – Local government units are encouraged to adopt
12 comprehensive land-use plans. The Division of Community Assistance in the
13 Department of Commerce shall, upon request, provide technical assistance to any
14 economically distressed local government unit in preparing a comprehensive land-use
15 plan. A comprehensive land-use plan that meets the requirements of Article 18 of
16 Chapter 153A of the General Statutes or Article 19 of Chapter 160A of the General
17 Statutes shall contain reasonable provisions designed to protect existing water uses and
18 assure compliance with water quality standards and classifications in all waters of the
19 State affected by the land-use plan.

20 **"§ 159G-11. Withdrawal of commitment.**

21 Failure of an applicant, within one year of the date of acceptance of a revolving loan
22 or grant ~~award,~~award or within two years of the date of the notification by the
23 Department of intent to make such an award, whichever is later, to (i) arrange for
24 necessary financing of the proposed project, or (ii) award a contract for the construction
25 of the proposed project, shall constitute sufficient cause for withdrawal of the
26 commitment. Prior to withdrawal of a commitment, the receiving agency shall give due
27 consideration to any extenuating circumstances presented by the applicant as reasons for
28 its failure to arrange necessary financing or to award a contract, and the commitment
29 may be extended for an additional period of time if, in the judgment of the receiving
30 agency, such an extension is justified. No project shall be deemed to have less than one
31 year to meet the provisions of this section.

32 **"§ 159G-12. Disbursement.**

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

37 (b) In the event that the revolving loan or grant payments are to be made in
38 installments, no payment shall be disbursed by the ~~Department of Environment and~~
39 ~~Natural Resources~~Department until the receiving agency submits a written request for
40 disbursement.

41 (c) The receiving agency, in its sole discretion, may determine whether the
42 payment of any revolving loan or grant made under this Chapter shall be in a lump sum
43 or in installments as progress payments and shall, by adoption of appropriate rules and
44 regulations, provide for the manner of approval and payment of revolving loans or

1 grants. The State Treasurer, with the approval of the receiving agency and consistent
2 with the provisions of G.S. 159G-6(a)(3), shall, by adoption of appropriate rules,
3 provide for the payment of revolving loans or grants.

4 **"§ 159G-13. Revolving loans and grants.**

5 (a) To be eligible to receive the revolving loans and grants provided for in this
6 Chapter, applicants shall arrange to borrow the amounts necessary to be borrowed in
7 connection therewith pursuant to the Local Government Finance Act or as provided in
8 this Chapter as applicable. Applicants may apply for the revolving loans and grants
9 prior to arranging for such borrowing.

10 (b) Revenues received by municipalities from sales and use taxes levied under
11 Articles 40, 41, and 42 of Chapter 105 of the General Statutes which are restricted in
12 use for water and sewage capital outlay, and retirement of indebtedness for those
13 purposes, may be used for periodic payments on revolving loans made under this
14 Article.

15 **"§ 159G-14. Inspection.**

16 Inspection of a project for which a revolving loan or grant has been made under this
17 Chapter may be performed by qualified personnel of the ~~Division of Environmental~~
18 ~~Health or the Environmental Management Commission~~Department or may be
19 performed by qualified professional engineers, registered in this State, who have been
20 approved by the ~~Division of Environmental Health or the Environmental Management~~
21 ~~Commission;~~Department; but no person shall be approved to perform inspections who
22 is an officer or employee of the applicant to which the revolving loan or grant was made
23 or who is an owner, officer, employee or agent of a contractor or subcontractor engaged
24 in the construction of the project for which the revolving loan or grant was made. For
25 the purpose of payment of inspection fees, inspection services shall be included in the
26 term "construction cost" as used in this Chapter.

27 **"§ 159G-15. State loan and grant rules. Rules.**

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

35 (b) A copy of its rules adopted to implement the provisions of this Chapter shall
36 be furnished free of charge by the receiving agency and the ~~Department of Environment~~
37 ~~and Natural Resources~~Department to any applicant.

38 **"§ 159G-16. Federal grants and loans. loan and grant rules.**

39 In order to carry out the purpose of this Chapter to secure the greatest benefits
40 possible to the citizens of this State from the funds herein appropriated, the ~~Department~~
41 ~~of Environment and Natural Resources, the Commission for Health Services, and the~~
42 ~~Environmental Management Commission~~Department shall adopt such rules and criteria,
43 not inconsistent with the provisions of this Chapter, as are necessary and appropriate to

1 conform to regulations for federal grants and loans for any of the purposes set forth in
2 this Chapter.

3 **"§ 159G-17. Annual reports to Joint Legislative Commission on Governmental**
4 **Operations.**

5 ~~(a) The Department of Environment and Natural Resources, the Division of~~
6 ~~Environmental Health, and the Environmental Management Commission~~Department
7 shall prepare and file on or before July 31 of each year with the Joint Legislative
8 Commission on Governmental Operations a ~~consolidated summary~~ report for the
9 ~~preceding fiscal year concerning the allocation of revolving loans and grants authorized~~
10 ~~by this Chapter~~of all allocations made from the Clean Water and Drinking Water
11 Revolving Loan and Grant Fund for each of the previous five fiscal years; the total
12 funds received and allocations made; and unallocated funds on hand in each account as
13 of the end of the preceding fiscal year.

14 (b) ~~The portion of the report prepared by the Department of Environment and~~
15 ~~Natural Resources~~ Department shall also set forth for the preceding fiscal year itemized
16 and total allocations from the Wastewater Accounts ~~of revolving loans and grants~~
17 ~~authorized by the Environmental Management Commission; and itemized and total~~
18 allocations from the Water Supply Accounts of revolving loans and grants authorized by
19 the ~~Division of Environmental Health. The Department of Environment and Natural~~
20 ~~Resources shall also prepare a summary report of all allocations made from the Clean~~
21 ~~Water Revolving Loan and Grant Fund for each of the previous five fiscal years; the~~
22 ~~total funds received and allocations made; and unallocated funds on hand in each~~
23 ~~account as of the end of the preceding fiscal year.~~

24 (c) ~~Environmental Management Commission and Division of Environmental~~
25 ~~Health. The portions of the report prepared by the Environmental Management~~
26 ~~Commission and the Division of Environmental Health shall include:~~ Department
27 including:

- 28 (1) Identification of each revolving loan and grant made by the receiving
29 agency during the preceding fiscal year; the total amount of the
30 revolving loan and grant commitments; the sums actually paid during
31 the preceding fiscal year to each revolving loan and grant made and to
32 each revolving loan and grant previously committed but unpaid; and
33 the total revolving loan and grant funds paid during the preceding
34 fiscal year.
- 35 (2) Repealed by Session Laws 1991, c. 186, s. 9.
- 36 (3) A summary for the preceding five years of the total number of
37 revolving loans and grants made; the total funds committed to such
38 revolving loans and grants; and the total sum actually paid to such
39 revolving loans and grants.
- 40 (4) Assessment and evaluation of the effects that approved projects have
41 had upon water pollution control and water supplies within the
42 purposes of this Chapter and with relation to the total water pollution
43 control and water supply problem.

1 (d) The report shall be signed by ~~each of the chief executive officers~~ Secretary of
2 the ~~State agencies preparing the report.~~Department.

3 **"§ 159G-18. Applicant borrowing authority.**

4 (a) Applicants may execute debt instruments payable to the State in order to
5 obtain revolving loans provided for in this Chapter. Applicants shall pledge as security
6 for such obligations the user fee revenues derived from operation of the benefited
7 facilities or systems only, or other sources of revenue, or their faith and credit, or any
8 combination thereof. The faith and credit of applicants that are local government units
9 shall not be pledged or be deemed to have been pledged unless the requirements of
10 Article 4, Chapter 159 of the General Statutes have been met. The State Treasurer, with
11 the assistance of the Local Government Commission, shall develop and adopt
12 appropriate debt instruments for use by applicants under this Chapter. The Local
13 Government Commission shall develop and adopt appropriate procedures for the
14 delivery of debt instruments by applicants to the State without any public bidding
15 therefore.

16 (b) The Local Government Commission shall review and approve proposed loans
17 to applicants that are local government units under this Chapter under the provisions of
18 Articles 4 and 5, Chapter 159 of the General Statutes, as if the issuance of bonds was
19 proposed, so far as those provisions are applicable. The Local Government Commission
20 shall review and approve proposed loans to all other applicants ~~that are nonprofit water~~
21 ~~corporations~~ under this Chapter under the provisions of G.S. 159-153, so far as those
22 provisions are applicable. Revolving loans under this Chapter shall be outstanding debt
23 of applicants that are local government units for the purpose of Article 10, Chapter 159
24 of the General Statutes."

25 **SECTION 3.** G.S. 113A-253(c) is amended by adding a new subdivision to
26 read:

27 "(7a) To facilitate stormwater planning projects and water supply planning
28 projects."

29 **SECTION 4.** The General Statutes are amended by adding a new Chapter to
30 read:

31 **"Chapter 159H.**

32 **"Rural Center Water Supply and Wastewater Treatment Fund.**

33 **"§ 159H-1. Definitions.**

34 The following definitions apply in this Chapter:

35 (1) "Center" means the North Carolina Rural Economic Development
36 Center, Inc., a nonprofit North Carolina corporation, or any successor
37 thereto. In the event such corporation dissolves or no longer performs
38 the functions contemplated by this Chapter, the term shall mean that
39 comparable corporation designated by the Governor.

40 (2) "Fund" means the Rural Center Water Supply and Wastewater
41 Treatment Fund established in G.S. 159H-4.

42 (3) "Rural county" means a county with a density of fewer than 200
43 people per square mile based on the 1990 United States census.

44 **"§ 159H-2. Purpose.**

1 The General Assembly recognizes that many local governments, public systems, and
2 private nonprofit systems have critical infrastructure needs regarding drinking water
3 supplies and wastewater treatment systems, particularly in the rural areas of the State. In
4 addition, it is often difficult for local governments to secure affordable funding for those
5 critical infrastructure needs. It is the intent and purpose of the General Assembly by this
6 Chapter to create a program to facilitate planning and construction of drinking water
7 supply and wastewater treatment infrastructure by establishing a loan and grant fund for
8 financing such projects. This fund will enable local government units, public systems,
9 and private nonprofit systems to obtain loans, deferred payment loans, low-interest
10 loans, or grants for financing projects for drinking water supply and wastewater
11 treatment infrastructure. The source of moneys for this fund is a portion of the revenue
12 collected under G.S. 105-228.30. The General Assembly seeks by this Chapter to
13 encourage and assist local government units, public systems, and private nonprofit
14 systems to meet their responsibilities to their citizens to maintain a clean and healthful
15 environment and an abundant supply of pure water and further to provide an adequate
16 base for economic growth.

17 **"§ 159H-3. Appropriation.**

18 Funds credited to the North Carolina Rural Economic Development Center in
19 accordance with G.S. 105-228.30 are appropriated to the Fund to be used only for
20 drinking water and wastewater treatment planning and construction programs in rural
21 counties as provided by G.S. 105-228.30 and this Chapter.

22 **"§ 159H-4. Rural Center Water Supply and Wastewater Treatment Fund.**

23 There is established in the Department of the State Treasurer the Rural Center Water
24 Supply and Wastewater Treatment Fund. The Fund is to be administered by the Center
25 which shall be responsible for receipt of all moneys as appropriated and provided for in
26 this Chapter.

27 **"§ 159H-5. Distribution of funds; administrative fee.**

28 (a) Of the funds appropriated to the Fund, fifty percent (50%) shall be allocated
29 for water supply loans and grants and fifty percent (50%) for wastewater treatment
30 loans and grants, provided that up to ten percent (10%) of the wastewater treatment
31 allocation shall be available for stormwater projects.

32 (b) All funds appropriated or accruing to the Fund, other than moneys set aside
33 for administrative expenses, shall be used for loans, including deferred payment loans
34 and low-interest loans and grants to applicants for planning and construction costs of
35 wastewater treatment works, wastewater collection systems, and water supply systems
36 in rural counties.

37 (c) The Center may impose a fee to cover administrative costs on each loan or
38 grant awarded under this Chapter. The fee shall not exceed two percent (2%) of the loan
39 or grant awarded.

40 **"§ 159H-6. Criteria.**

41 Loans and grants made from the Fund shall be based on the following criteria:

- 42 (1) The applicant shall be a rural county, a local government unit, a public
43 system, or a private, nonprofit system. An applicant is eligible for a
44 loan or grant under this Chapter only if it is located in a rural county,

- 1 (2) A water supply system, wastewater collection system, or wastewater
2 treatment work shall receive funding priority if the system is located
3 within an economically distressed county as defined in
4 G.S. 143B-437.01.
- 5 (3) A water supply system, wastewater collection system, or wastewater
6 treatment works that is proposed in a rural county that is not also an
7 economically distressed county, as defined in G.S. 143B-437.01, must
8 meet at least one of the following criteria: (i) be located in that part of
9 the county where the poverty rate is at least one hundred fifty percent
10 (150%) of the State poverty rate, (ii) be located in that part of the
11 county where the unemployment rate is at least double the State
12 unemployment rate for the most recent reporting period available, or
13 (iii) be located in that part of the county that experiences an actual or
14 imminent loss of jobs in a number that equals or exceeds five percent
15 (5%) of the total number of jobs in that part of the county. Any grant
16 awarded under this subdivision shall be matched by the applicant on a
17 dollar-for-dollar basis in the amount of the grant awarded.
- 18 (4) If the funding provided under this Chapter to the applicant is a grant,
19 then the grant funds shall supplement other funding and shall not
20 represent the total costs of the wastewater collection systems,
21 wastewater treatment works, or water supply systems financed.

22 **"§ 159H-7. Priorities.**

23 (a) Funds available in the Rural Center Water Supply and Wastewater Treatment
24 Fund are sufficient to meet no more than a fraction of the needs that now exist and will
25 arise in the immediate future. For this reason, public necessity and the criteria indicated
26 in G.S. 159H-6 shall be the primary consideration in granting and loaning funds. In
27 addition to public necessity and the applicable criteria, special emphasis shall also be
28 placed on the following:

- 29 (1) The creation of efficient systems of water supply and distribution and
30 wastewater collection and disposal. Such efficiencies may result from
31 the merger or consolidation of smaller systems into regional water and
32 sewer systems where warranted and deemed to be in the best interest
33 of the communities and regions. Such efficiencies may also be
34 obtained through projects proposing water reuse and conservation.
- 35 (2) The willingness and ability of an applicant to meet its responsibilities
36 through sound fiscal policies, creative planning, and efficient operation
37 and management.
- 38 (3) The development of a capital improvement plan.
- 39 (4) A reduction in the overall volume of effluent discharged to the State's
40 waters by using alternative methods of wastewater treatment when
41 feasible.
- 42 (5) The use of loan or grant funds in a manner consistent with the water
43 supply watershed protection requirements of G.S. 143-214.5.

1 (6) The use of loan or grant funds to address current critical infrastructure
2 needs.

3 Special emphasis is achieved by assigning a significant number of points for the
4 items listed in this subsection in any point system developed for awarding grants or
5 loans from the Fund.

6 (b) Determination of priorities to be assigned each eligible application shall be
7 made by the Center during each fiscal year. Every eligible application filed under this
8 Chapter shall be considered by the Center with every other application filed under this
9 Chapter, respectively, and eligible for consideration during the same priority period, to
10 determine the priority to be assigned to each application. Any application that does not
11 contain the information required by this Chapter or guidelines adopted by the Center
12 shall not be deemed received until the applicant furnishes the information to the Center.

13 (c) All applications for loans or grants under this Chapter eligible for
14 consideration during each priority period shall be assigned a priority for funds by the
15 Center. Complete applications received under this Chapter may be considered for
16 funding at any time by the Center.

17 (d) A written statement relative to each priority assigned shall be prepared by the
18 Center and shall be attached to the application. The priority assigned shall be
19 conclusive.

20 (e) Any application filed under this Chapter that does not qualify for a loan or
21 grant as of the priority period in which the application was eligible for consideration by
22 reason of the priority assigned the application shall be considered for a loan or grant
23 during the next succeeding priority period upon request of the applicant. If the
24 application should again fail to qualify for a loan or grant during the second priority
25 period by reason of the priority assigned, the application shall receive no further
26 consideration. An applicant may file a new application at any time and may amend any
27 pending application to include additional data or information.

28 **"§ 159H-8. Disbursement.**

29 (a) The funds appropriated to the Fund by G.S. 105-228.30 shall be held in the
30 Fund until needed for expenditure by the recipient of the loan or grant for the payment
31 of costs for the purposes for which the loan or grant is made. The Center shall maintain
32 records that document the timing and purpose for which each expenditure of a loan or
33 grant is made and shall furnish the records to the State Treasurer at the time a request
34 for a payment to or on behalf of a loan or grant recipient is to be made.

35 (b) At the end of each fiscal year, the State Treasurer shall review the loans and
36 grants awarded by the Rural Economic Development Center with moneys from the
37 Fund to verify that the loans and grants awarded comply with the requirements of this
38 Chapter. The State Treasurer shall provide his or her findings regarding compliance in
39 writing to the Office of State Budget and Management. At the time the Center provides
40 information to the State Treasurer as to the loans and grants awarded during the
41 preceding fiscal year, the Center shall also provide the State Treasurer with a copy of all
42 records of the Center from the preceding fiscal year (to the extent not previously
43 provided to the State Treasurer) that document the timing and purposes of the

1 expenditures by the recipients of the loans and grants funded from the Rural Center
2 Water Supply and Wastewater Treatment Fund.

3 **"§ 159H-9. Report to Joint Legislative Commission on Governmental Operations.**

4 The Center shall report by June 1 annually to the Joint Legislative Commission on
5 Governmental Operations regarding the funds appropriated to the Rural Center Water
6 Supply and Wastewater Treatment Fund and the loans and grants awarded by the Center
7 from that Fund."

8 **SECTION 5.** This act becomes effective July 1, 2005, and applies to
9 conveyances made on or after that date.