

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

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HOUSE BILL 1771

Short Title: Encourage Water Conservation Improvements. (Public)

Sponsors: Representatives K. Alexander; Bryant, Dockham, Gibson, Harrison, Insko, Lucas, Michaux, Pierce, Stewart, Tarleton, and Wainwright.

Referred to: Water Resources and Infrastructure, if favorable, Finance.

May 19, 2010

A BILL TO BE ENTITLED

1 AN ACT TO AUTHORIZE CITIES TO DESIGNATE AN AREA WITHIN THE CITY
2 WHERE CITY OFFICIALS AND PROPERTY OWNERS MAY ENTER INTO
3 CONTRACTUAL ASSESSMENTS TO FINANCE THE INSTALLATION OF WATER
4 COLLECTION AND REUSE TECHNOLOGY, TO AUTHORIZE CITIES TO
5 ESTABLISH A REVOLVING LOAN FUND TO FINANCE THE INSTALLATION OF
6 WATER COLLECTION AND REUSE TECHNOLOGY, TO AUTHORIZE THE USE OF
7 PROPERTY TAX REVENUE TO ESTABLISH EITHER AN ASSESSMENT OR
8 REVOLVING LOAN PROGRAM TO FINANCE THE INSTALLATION OF WATER
9 COLLECTION AND REUSE TECHNOLOGY, TO ALLOW SUCH PROGRAMS TO BE
10 FUNDED THROUGH AN INCREASE IN WATER RATES, AND TO PROVIDE FOR A
11 TAX CREDIT FOR THE PURCHASE, CONSTRUCTION, AND INSTALLATION OF
12 CERTAIN WATER CONSERVATION SYSTEMS.
13

14 Whereas, the General Assembly finds that encouraging North Carolina homeowners
15 and businesses to capture and reuse rainwater will further the public purpose of conserving and
16 protecting the water resources of the State; and

17 Whereas, the establishment by cities of revolving loan funds and special
18 assessments to fund improvements on residential, commercial or other real property will also
19 serve a public purpose by reducing the need for costly sewage treatment plants and plant
20 expansions and reduce the use of public drinking water supplies for applications where water
21 not treated to drinking water standards could be utilized such as landscape irrigation or toilet
22 flushing; Now, therefore,

23 The General Assembly of North Carolina enacts:

24 **SECTION 1.(a)** G.S. 160A-239.2 reads as rewritten:

25 "**§ 160A-239.2. Assessments.**

26 (a) Projects. – The council of a city may make special assessments as provided in this
27 Article against benefited property within the city for the purpose of financing the capital costs
28 of projects for which project development financing debt instruments may be issued under
29 G.S. 159-103 or for the purpose of financing the installation of distributed generation
30 renewable energy ~~sources~~—sources, water conservation systems, or energy efficiency
31 improvements that are permanently fixed to residential, commercial, industrial, or other real
32 property. For purposes of this section, water conservation system shall have the same meaning
33 as in G.S. 105-129.15.

34 (b) Costs. – The city council must determine a project's total estimated cost. In addition
35 to the costs allowed under G.S. 153A-193, the costs may include any expenses allowed under



1 G.S. 159-84. A preliminary assessment roll may be prepared before the costs are incurred based
2 on the estimated cost of the project.

3 (c) Method. – The city council must establish an assessment method that will most
4 accurately assess each lot or parcel of land according to the benefits conferred upon it by the
5 project for which the assessment is made. In addition to the bases upon which assessments may
6 be made under G.S. 160A-218, the council may select any other method designed to allocate
7 the costs in accordance with benefits conferred."

8 **SECTION 1.(b)** G.S. 160A-239.4 reads as rewritten:

9 **"§ 160A-239.4. Financing a project for which an assessment is imposed.**

10 (a) Financing Sources. – A city council may provide for the payment of the cost of a
11 project for which an assessment may be imposed under this Article from one or more financing
12 sources listed in this subsection. The assessment resolution must include the estimated cost of
13 the project and the amount of the cost to be derived from the respective financing source.

14 (1) Revenue bonds issued under G.S. 160A-239.6.

15 (2) Project development financing debt instruments issued under the North
16 Carolina Project Development Financing Act, Article 6 of Chapter 159 of
17 the General Statutes.

18 (3) General obligation bonds issued under the Local Government Bond Act,
19 Article 4 of Chapter 159 of the General Statutes.

20 (4) General revenues.

21 (b) Assessments Pledged. – An assessment imposed under this Article may be pledged
22 to secure revenue bonds under ~~G.S. 153A-210.6~~G.S. 160A-239.6 or as additional security for a
23 project development financing debt instrument under G.S. 159-111. If an assessment imposed
24 under this Article is pledged to secure financing, the city council must covenant to enforce the
25 payment of the assessments."

26 **SECTION 2.** G.S. 153A-210.2 reads as rewritten:

27 **"§ 153A-210.2. Assessments.**

28 (a) Projects. – The board of commissioners of a county may make special assessments
29 as provided in this Article against benefited property within the county for the purpose of
30 financing the capital costs of projects for which project development financing debt instruments
31 may be issued under G.S. 159-103 or for the purpose of financing the installation of distributed
32 generation renewable energy ~~sources~~ sources, water conservation systems, or energy efficiency
33 improvements that are permanently fixed to residential, commercial, industrial, or other real
34 property. For purposes of this section, water conservation system shall have the same meaning
35 as in G.S. 105-129.15.

36 (b) Costs. – The board of commissioners must determine a project's total estimated cost.
37 In addition to the costs allowed under G.S. 153A-193, the costs may include any expenses
38 allowed under G.S. 159-84. A preliminary assessment roll may be prepared before the costs are
39 incurred based on the estimated cost of the project.

40 (c) Method. – The board of commissioners must establish an assessment method that
41 will most accurately assess each lot or parcel of land according to the benefits conferred upon it
42 by the project for which the assessment is made. In addition to the bases upon which
43 assessments may be made under G.S. 153A-186, the board may select any other method
44 designed to allocate the costs in accordance with benefits conferred. "

45 **SECTION 3.(a)** Article 16 of Chapter 160A of the General Statutes is amended by
46 adding a new section to read:

47 **"§ 160A-320.1 Revolving loan program for water efficiency improvements.**

48 (a) Purpose. – The General Assembly finds it is in the best interest of the citizens of
49 North Carolina to promote and encourage water efficiency within the State in order to conserve
50 water resources, promote economic competitiveness, and expand employment in the State, and
51 in the best interests of cities operating water and sewer systems to reduce the need for costly

1 expanded or new capacity for water and sewer treatment by encouraging water efficiency. In
2 furtherance of this purpose, a city may establish a program to finance the purchase and
3 installation of water conservation systems that are permanently affixed to residential,
4 commercial, or other real property. For purposes of this section, water conservation system
5 shall have the same meaning as in G.S. 105-129.15.

6 (b) **Revolving Loan Fund.** – A city may establish a revolving loan fund for the purpose
7 of providing loans to finance the purchase and installation of water conservation systems that
8 are permanently fixed to residential, commercial, or other real property. In addition to a
9 surcharge on rates under G.S. 160A-314, a city may use Energy Efficiency and Conservation
10 Block Grant Funds, property tax revenue, State or federal grant proceeds or any other
11 unrestricted revenue to fund the revolving loan fund. The annual interest rate charged for the
12 use of funds from the revolving fund may not exceed eight percent (8%) per annum, excluding
13 other fees for loan application review and origination. The term of any loan originated under
14 this section may not be greater than 15 years.

15 **SECTION 3.(b)** Article 15 of Chapter 153A of the General Statutes is amended by
16 adding a new section to read:

17 **§ 153A-289. Revolving loan program for water efficiency improvements.**

18 (a) **Purpose.** – The General Assembly finds it is in the best interest of the citizens of
19 North Carolina to promote and encourage water efficiency within the State in order to conserve
20 water resources, promote economic competitiveness, and expand employment in the State, and
21 in the best interests of counties operating water and sewer systems to reduce the need for costly
22 expanded or new capacity for water and sewer treatment by encouraging water efficiency. In
23 furtherance of this purpose, a county may establish a program to finance the purchase and
24 installation of water conservation systems that are permanently affixed to residential,
25 commercial, or other real property. For purposes of this section, water conservation system
26 shall have the same meaning as in G.S. 105-129.15.

27 (b) **Revolving Loan Fund.** – A county may establish a revolving loan fund for the
28 purpose of providing loans to finance the purchase and installation of water conservation
29 systems that are permanently fixed to residential, commercial, or other real property. In
30 addition to a surcharge on rates under G.S. 153A-277, a county may use Energy Efficiency and
31 Conservation Block Grant Funds, property tax revenue, State or federal grant proceeds or any
32 other unrestricted revenue to fund the revolving loan fund. The annual interest rate charged for
33 the use of funds from the revolving fund may not exceed eight percent (8%) per annum,
34 excluding other fees for loan application review and origination. The term of any loan
35 originated under this section may not be greater than 15 years.

36 **SECTION 3.(c)** Article 1 of Chapter 162A of the General Statutes is amended by
37 adding a new section to read:

38 **§ 162A-6.2. Revolving loan program for water efficiency improvements.**

39 (a) **Purpose.** – The General Assembly finds it is in the best interest of the citizens of
40 North Carolina to promote and encourage water efficiency within the State in order to conserve
41 water resources, promote economic competitiveness, and expand employment in the State. In
42 furtherance of this purpose, a water and sewer authority may establish a program to finance the
43 purchase and installation of water conservation systems that are permanently affixed to
44 residential, commercial, or other real property. For purposes of this Article, water conservation
45 system shall have the same meaning as in G.S. 105-129.15.

46 (b) **Revolving Loan Fund.** – A water and sewer authority may establish a revolving loan
47 fund for the purpose of providing loans to finance the purchase and installation of water
48 conservation systems that are permanently fixed to residential, commercial, or other real
49 property. The water and sewer authority may use a surcharge of no more than one dollar
50 (\$1.00) on its base rate to fund the revolving loan fund. The annual interest rate charged for the
51 use of funds from the revolving fund may not exceed eight percent (8%) per annum, excluding

1 other fees for loan application review and origination. The term of any loan originated under
2 this section may not be greater than 15 years."

3 **SECTION 4.(a)** G.S. 160A-314 reads as rewritten:

4 **"§ 160A-314. Authority to fix and enforce rates.**

5 (a) A city may establish and revise from time to time schedules of rents, rates, fees,
6 charges, and penalties for the use of or the services furnished by any public enterprise.
7 Schedules of rents, rates, fees, charges, and penalties may vary according to classes of service,
8 and different schedules may be adopted for services provided outside the corporate limits of the
9 city.

10 ...

11 (a3) A city may levy a surcharge of no more than one dollar (\$1.00) on water rates fixed
12 under this section in order to fund a revolving loan program for water conservation systems
13 under G.S. 160A-320.1.

14"

15 **SECTION 4.(b)** G.S. 153A-277 reads as rewritten:

16 **"§ 153A-277. Authority to fix and enforce rates.**

17 (a) A county may establish and revise from time to time schedules of rents, rates, fees,
18 charges, and penalties for the use of or the services furnished by a public enterprise. Schedules
19 of rents, rates, fees, charges, and penalties may vary for the same class of service in different
20 areas of the county and may vary according to classes of service, and different schedules may
21 be adopted for services provided outside of the county. A county may include a fee relating to
22 subsurface discharge wastewater management systems and services on the property tax bill for
23 the real property where the system for which the fee is imposed is located.

24 ...

25 (a2) A county may levy a surcharge of no more than one dollar (\$1.00) on water rates
26 fixed under this section in order to fund a revolving loan program for water conservation
27 systems under G.S. 153A-289.

28"

29 **SECTION 5.(a)** G.S. 160A-209 reads as rewritten:

30 **"§ 160A-209. Property taxes.**

31 ...

32 (c) Each city may levy property taxes for one or more of the following purposes subject
33 to the rate limitation set out in subsection (d):

34 ...

35 (12a) Energy and Water Efficiency. – To provide programs to finance the purchase
36 and installation of distributed generation renewable energy sources, water
37 conservation systems, or energy efficiency improvements that are
38 permanently affixed to residential, commercial, or other real property under
39 G.S. 160A-239.2 or G.S. 160A-320.1.

40"

41 **SECTION 5.(b)** G.S. 153A-149 reads as rewritten:

42 **"§ 153A-149. Property taxes; authorized purposes; rate limitation.**

43 ...

44 (c) Each county may levy property taxes for one or more of the purposes listed in this
45 subsection up to a combined rate of one dollar and fifty cents (\$1.50) on the one hundred
46 dollars (\$100.00) appraised value of property subject to taxation. Authorized purposes subject
47 to the rate limitation are:

48 ...

49 (10c) Energy and Water Efficiency. – To provide programs to finance the purchase
50 and installation of distributed generation renewable energy sources, water
51 conservation systems, or energy efficiency improvements that are

1 permanently affixed to residential, commercial, or other real property under
2 G.S. 153A-210.2 or G.S. 153A-289.

3"

4 **SECTION 6.(a)** G.S. 105-129.15 reads as rewritten:

5 **"§ 105-129.15. Definitions.**

6 The following definitions apply in this Article:

7 ...

8 (4b) Local government infrastructure financing option. – A special assessment
9 under Article 10A of Chapter 160A or Article 9A of Chapter 153A of the
10 General Statutes, or a revolving loan program under G.S. 153A-455,
11 153A-289, 160A-320.1, 160A-459.1, or 162A-6.2.

12 ...

13 (9) Water conservation system. – A system or a series of components or
14 mechanisms that are designed to provide for the collection and reuse on the
15 premises of rainwater and that is constructed in accordance with any
16 standards for such systems promulgated by the Department of Environment
17 and Natural Resources or the Building Code Council."

18 **SECTION 6.(b)** Article 3B of Chapter 105 of the General Statutes is amended by
19 adding a new section to read:

20 **"§ 105-129.16I. Credit for water conservation systems.**

21 (a) Credit. – If a taxpayer has constructed, purchased, or leased a water conservation
22 system at the taxpayer's residence or place of business in this State during the taxable year, the
23 taxpayer is allowed a credit equal to thirty-five percent (35%) of the cost of the system. A water
24 conservation system that was installed by the builder of a house or dwelling unit before title
25 was conveyed to the taxpayer does not qualify for a credit under this section. If the water
26 conservation system is financed by a local government through a local government
27 infrastructure financing option, then the entire credit may not be taken for the taxable year in
28 which the system is placed in service but must be taken in installments corresponding to
29 thirty-five percent (35%) of the yearly amount paid by the taxpayer under the assessment or
30 loan beginning with the taxable year in which the first payment is due for the assessment or
31 loan and ending with the year in which the assessment or loan is fully paid by the taxpayer.

32 (b) Expiration. – If, in one of the years in which the installment of a credit accrues, the
33 water conservation system with respect to which the credit was claimed is dismantled or
34 otherwise taken out of service in this State, the credit expires and the taxpayer may not take any
35 remaining installment of the credit. The taxpayer may, however, take the portion of an
36 installment that accrued in a previous year and was carried forward to the extent permitted
37 under G.S. 105-129.17. No credit is allowed under this section to the extent the cost of the
38 water conservation system was provided by public funds. However, a water conservation
39 system financed by a local government through a local government infrastructure financing
40 option shall not be considered to be provided by public funds for purposes of this section.

41 (c) Ceilings. – The credit allowed by this section may not exceed the applicable ceilings
42 provided in this subsection.

43 (1) Nonresidential property. – A ceiling of one million dollars (\$1,000,000) per
44 installation applies to water conservation systems placed in service for any
45 purpose other than residential.

46 (2) Residential property. – A ceiling of three thousand dollars (\$3,000) per
47 dwelling unit.

48 (d) No Double Credit. – A taxpayer that claims any other credit allowed under this
49 Chapter with respect to a water conservation system may not take the credit allowed in this
50 section with respect to the same property. A taxpayer may not take the credit allowed in this
51 section for a water conservation system installed on property the taxpayer leases from another

1 unless the taxpayer obtains the lessor's written certification that the lessor will not claim a
2 credit under this Chapter with respect to the property.

3 (e) Sunset. – This section is repealed effective for taxable years beginning on or after
4 January 1, 2016."

5 **SECTION 7.** Section 5 of this act is effective when it becomes law. Sections 1, 2,
6 3, and 4 of this act become effective October 1, 2010. Section 6 of this act is effective for
7 taxable years beginning on or after January 1, 2011, and applies to amounts paid or incurred by
8 a taxpayer for a water conservation system on or after that date.