

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1991

S

2

SENATE BILL 344

Environment & Natural Resources Committee Substitute Adopted 4/15/91

Short Title: Clean Water Loan Program Transfer.

(Public)

Sponsors:

Referred to:

March 28, 1991

A BILL TO BE ENTITLED

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

The General Assembly of North Carolina enacts:

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

"§ 159G-3. Definitions.

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

- (1) ~~'Administrative Account' means the Administrative Account in the Clean Water Revolving Loan and Grant Fund established in the Office of State Budget and Management under the provisions of this Chapter to cover administrative costs of the program.~~
- (2) 'Applicant' means a local government unit that applies for a revolving loan or grant under the provisions of this Chapter. In addition, a local government may provide funds to a nonprofit agency which is currently under contract and authorized to provide wastewater treatment or water supply services to that unit of local government.
- (3) 'Clean Water Revolving Loan and Grant Fund' means the fund established in the Office of State Budget and Management Department of Environment, Health, and Natural Resources to carry out the provisions of this Chapter, with various accounts therein as herein provided.

- 1 (4) 'Construction costs' means the actual costs of planning, designing and  
2 constructing any project for which a revolving loan or grant is made  
3 under this Chapter including planning; environmental assessment;  
4 wastewater system analysis, evaluation and rehabilitation; engineering;  
5 legal, fiscal, administrative and contingency costs for water supply  
6 systems, wastewater collection systems, wastewater treatment works  
7 and any extensions, improvements, remodeling, additions, or  
8 alterations to existing systems. Construction costs may include excess  
9 or reserve capacity costs, attributable to no more than 20-year  
10 projected domestic growth, plus ten percent (10%) unspecified  
11 industrial growth. In addition, construction costs shall include any  
12 fees payable to the Environmental Management Commission or the  
13 Division of Environmental Health for review of applications and grant  
14 of permits, and fees for inspections under G.S. 159G-14. Construction  
15 costs may also include the costs for purchase or acquisition of real  
16 property.
- 17 (5) 'Grant' means a sum of money given by the State to a local  
18 government unit to subsidize the construction costs of a project  
19 authorized by this Chapter, without any obligation on the part of such  
20 unit to repay such sum.
- 21 (6) 'Commission for Health Services' means the Commission for Health  
22 Services created by G.S. 130A-29.
- 23 (6a) 'Debt instrument' means an instrument in the nature of a promissory  
24 note executed by a local government unit under the provisions of this  
25 Chapter, to evidence a debt to the State and obligation to repay the  
26 principal, plus interest, under stated terms.
- 27 (7) 'Division of Environmental Health' means the Division of  
28 Environmental Health of the Department of Environment, Health, and  
29 Natural Resources.
- 30 (8) 'Environmental Management Commission' means the Environmental  
31 Management Commission of the Department of Environment, Health,  
32 and Natural Resources.
- 33 (9) 'Local Government Commission' means the Local Government  
34 Commission of the Department of the State Treasurer, established by  
35 Article 2 of Chapter 159 of the General Statutes.
- 36 (10) 'Local government unit' means a county, city, town, incorporated  
37 village, sanitary district, metropolitan sewerage district, metropolitan  
38 water district, county water and sewer district, water and sewer  
39 authority or joint agency created pursuant to Part 1 of Article 20 of  
40 Chapter 160A of the General Statutes.
- 41 ~~(11) 'Office of State Budget and Management' means the Office of State~~  
42 ~~Budget and Management established by law.~~
- 43 (12) 'Receiving agency' means the Division of Environmental Health with  
44 respect to receipt of applications for revolving loans and grants for

1 water supply systems, and the Environmental Management  
2 Commission and the Division of Environmental Management with  
3 respect to receipt of applications for revolving loans and grants for  
4 wastewater systems.

5 (13) 'Revolving construction loan' means a sum of money loaned by the  
6 State to a local government unit to subsidize the construction costs of a  
7 project authorized by this Chapter, with an obligation on the part of  
8 such unit to repay such sum, the proceeds of such repayment to be  
9 deposited in the Water Pollution Control Revolving Fund.

10 (14) 'Revolving emergency loan' means a sum of money loaned by the  
11 State to a local government unit upon a certification, as provided in  
12 this Chapter, of a serious public health hazard, with an obligation on  
13 the part of such unit to repay such sum.

14 (15) 'Revolving loan' includes a revolving construction loan and an  
15 emergency loan.

16 (15a) 'State' means the State of North Carolina.

17 (15b) 'State Treasurer' means the Treasurer of the State elected pursuant  
18 to Article III, Section 7 of the Constitution or his designated  
19 representative.

20 (16) 'Wastewater Accounts' means the various accounts in the Clean  
21 Water Revolving Loan and Grant Fund established in the ~~Office of~~  
22 ~~State Budget and Management~~ Department of Environment, Health,  
23 and Natural Resources under this Chapter for revolving loans and  
24 grants for wastewater treatment work and wastewater collection  
25 system projects.

26 (17) 'Wastewater collection system' means a unified system of pipes,  
27 conduits, pumping stations, force mains, and appurtenances other  
28 than interceptor sewers, for collecting and transmitting water-  
29 carried human wastes and other wastewater from residences,  
30 industrial establishments or any other buildings, and owned by a  
31 local government unit.

32 (18) 'Wastewater treatment works' means the various facilities and  
33 devices used in the treatment of sewage, industrial waste or other  
34 wastes of a liquid nature, including the necessary interceptor  
35 sewers, outfall sewers, phosphorous removal equipment, pumping,  
36 power and other equipment and their appurtenances.

37 (19) 'Water Supply Accounts' means the various accounts in the Clean  
38 Water Revolving Loan and Grant Fund established in the ~~Office of~~  
39 ~~State Budget and Management~~ Department of Environment, Health,  
40 and Natural Resources under this Chapter for revolving loans and  
41 grants for water supply system projects.

42 (20) 'Water supply system' means a public water supply system  
43 consisting of facilities and works for supplying, treating and  
44 distributing potable water including, but not limited to,

1 impoundments, reservoirs, wells, intakes, water filtration plants and  
2 other treatment facilities, tanks and other storage facilities,  
3 transmission mains, distribution piping, pipes connecting the  
4 system to other public water supply systems, pumping equipment  
5 and all other necessary appurtenances, equipment and structures."

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

7 **"§ 159G-4. Appropriations.**

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

12 (b) Of the appropriations made from the General Fund to the Clean Water  
13 Revolving Loan and Grant Fund for use of the ~~Office of State Budget and Management~~  
14 Department of Environment, Health, and Natural Resources as provided in this Chapter,  
15 allocations are made as follows after first subtracting the amounts allocated under  
16 subsection (a) of this section, to the extent that there are any excess funds available:

17 Wastewater Accounts

18 General Wastewater Revolving

19 Loan Account 45.00%

20 Emergency Wastewater Revolving

21 Loan Account 14.00%

22 High-Unit Cost Wastewater

23 Account 10.00%

24 Water Supply Accounts

25 General Water Supply

26 Revolving Loan Account 23.00%

27 High-Unit Cost Water Supply

28 Account 3.00%

29 Emergency Water Supply Revolving

30 Loan Account 5.00%

31 (c) All payments of interest and repayments of principal resulting from revolving  
32 loans shall be credited to the respective accounts from which the revolving loan funds  
33 were disbursed. Terms and conditions for repayment of revolving loans shall be  
34 established by the ~~Office of State Budget and Management~~, Department of Environment,  
35 Health, and Natural Resources, with the assistance of the Local Government  
36 Commission, consistent with the requirements of the Federal Water Pollution Control  
37 Act and this Chapter. Provided, the interest rate for all revolving loans authorized by  
38 this Chapter shall be fixed at the same percent per annum as the interest rate fixed under  
39 the Federal Water Pollution Control Act for loans from the Water Pollution Control  
40 Revolving Fund established by G.S. 159G-5(c), not to exceed the lesser of four percent  
41 (4%) or one-half the prevailing national market rate for tax exempt general obligation  
42 debt of similar maturities derived from a published indicator. Provided further, the  
43 interest rate may be fixed at a lower rate per annum if authorized by the Federal Water  
44 Pollution Control Act Regulations. It is the intent of the General Assembly to provide

1 uniform interest payments for all loans made to units of local government irrespective  
2 of the account from which loans are made for either wastewater or water supply  
3 projects."

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

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

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

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

13 **"§ 159G-6. Distribution of funds.**

14 (a) Revolving loans and grants.

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

21 (2) The maximum principal amount of a revolving loan or a grant may be  
22 one hundred percent (100%) of the nonfederal share of the  
23 construction costs of any eligible project. The maximum principal  
24 amount of revolving loans made to any one local government unit  
25 during any fiscal year shall be three million dollars (\$3,000,000). The  
26 maximum principal amount of grants made to any one local  
27 government unit during any fiscal year shall be five hundred thousand  
28 dollars (\$500,000).

29 (3) The State Treasurer shall be responsible for investing and distributing  
30 all funds appropriated or accruing to the Clean Water Revolving Loan  
31 and Grant Fund for revolving loans and grants under this Chapter. In  
32 fulfilling his responsibilities under this section, the State Treasurer  
33 shall make a written request to the ~~Office of State Budget and~~  
34 ~~Management~~ Department of Environment, Health, and Natural  
35 Resources to arrange for the appropriated funds to be (i) transferred  
36 from the appropriate accounts to a local government unit to provide  
37 funds for one or more revolving loans or grants or (ii) invested as  
38 authorized by this Chapter with the interest on and the principal of  
39 such investments to be transferred to the local government unit to  
40 provide funds for one or more revolving loans or grants.

41 (b) Wastewater Accounts. – The sums allocated in G.S. 159G-4 and accruing to  
42 the various Wastewater Accounts in each fiscal year shall be used to make revolving  
43 loans and grants to local government units as provided below. The ~~Office of State Budget~~  
44 ~~and Management~~ Department of Environment, Health, and Natural Resources shall

1 disburse no funds from the Wastewater Accounts except upon receipt of written  
2 approval of the disbursement from the Environmental Management Commission.

3 (1) General Wastewater Revolving Loan and Grant Account. – The funds  
4 in the General Wastewater Revolving Loan and Grant Account shall  
5 be used exclusively for the purpose of providing for revolving  
6 construction loans or grants in connection with approved wastewater  
7 treatment work or wastewater collection system projects.

8 (2) High-Unit Cost Wastewater Account. – The funds in the High-Unit  
9 Cost Wastewater Account shall be available for grants to applicants for  
10 high-unit cost wastewater projects. Eligibility of an applicant for such  
11 a grant shall be determined by comparing estimated average household  
12 user fees for water and sewer service, for debt service and operation  
13 and maintenance costs, to one and one-half percent (1.5%) of the  
14 median household income in the county in which the project is located.  
15 The projects which would require estimated average household water  
16 and sewer user fees greater than one and one-half percent (1.5%) of the  
17 median household income are defined as high-unit cost wastewater  
18 projects and will be eligible for a grant equal to the excess cost, subject  
19 to the limitations in subsection (a)(2) of this section.

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

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

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

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

41 (3) Emergency Water Supply Revolving Loan Account. – The funds in the  
42 Emergency Water Supply Revolving Loan Account shall be available  
43 for revolving emergency loans to applicants in the event the Division  
44 of Environmental Health certifies that a serious public health hazard,

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

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

9 ~~Each agency entitled to receive administrative expense funds from the~~  
10 ~~Administrative Account shall prepare an itemized estimate of administrative funds~~  
11 ~~required for the succeeding fiscal year, and the Division of Environmental Health, the~~  
12 ~~Local Government Commission and the Environmental Management Commission shall~~  
13 ~~deliver their estimates to the Office of State Budget and Management at least 45 days~~  
14 ~~prior to the beginning of the fiscal year for which the funds are required. The Office of~~  
15 ~~State Budget and Management shall determine the administrative expense funds~~  
16 ~~available and, along with its recommendations, shall deliver the estimates of the~~  
17 ~~Division of Environmental Health, the Local Government Commission and of the~~  
18 ~~Environmental Management Commission and its own estimate, if any, to the Advisory~~  
19 ~~Budget Commission at least 30 days prior to the beginning of the fiscal year for which~~  
20 ~~the funds are required. Any administrative expense funds shall be disbursed by the~~  
21 ~~Office of State Budget and Management to the appropriate agency. If the administrative~~  
22 ~~expense funds disbursed to any agency shall prove insufficient, it may apply at any time~~  
23 ~~during the fiscal year for additional funds in the manner above provided.~~

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

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

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

43 ~~The Office of State Budget and Management, the Division of Environmental Health~~  
44 ~~Department of Environment, Health, and Natural Resources, the Commission for Health~~

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

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

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

11 **"§ 159G-12. Disbursement.**

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

17 (b) In the event that the revolving loan or grant payments are to be made in  
18 installments, no payment shall be disbursed by the ~~Office of State Budget and Management~~  
19 Department of Environment, Health, and Natural Resources until the receiving agency  
20 submits a written request for disbursement.

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

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

29 **"§ 159G-15. Rules.**

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

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

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

43 **"§ 159G-16. Federal grants and loans.**



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

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

9 **"§ 159G-17. Annual reports to Joint Legislative Commission on Governmental**  
10 **Operations.**

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

17 (b) ~~Office of State Budget and Management.~~—The portion of the report prepared by  
18 the ~~Office of State Budget and Management~~ Department of Environment, Health, and  
19 Natural Resources shall set forth for the preceding fiscal year ~~itemized and total~~  
20 ~~allocations from the Administrative Account for administrative expenses;~~ itemized and total  
21 allocations from the Wastewater Accounts of revolving loans and grants authorized by  
22 the Environmental Management Commission; and itemized and total allocations from  
23 the Water Supply Accounts of revolving loans and grants authorized by the Division of  
24 Environmental Health. The ~~Office of State Budget and Management~~ Department of  
25 Environment, Health, and Natural Resources shall also prepare a summary report of all  
26 allocations made from the Clean Water Revolving Loan and Grant Fund for each fiscal  
27 year; the total funds received and allocations made; and unallocated funds on hand in  
28 each account as of the end of the preceding fiscal year.

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

32 (1) Identification of each revolving loan and grant made by the receiving  
33 agency during the preceding fiscal year; the total amount of the  
34 revolving loan and grant commitments; the sums actually paid during  
35 the preceding fiscal year to each revolving loan and grant made and to  
36 each revolving loan and grant previously committed but unpaid; and  
37 the total revolving loan and grant funds paid during the preceding  
38 fiscal year.

39 (2) ~~Itemization of expenditures of any administrative expense funds~~  
40 ~~allocated from the Administrative Account during the preceding fiscal~~  
41 ~~year.~~

42 (3) Summarization for all preceding years of the total number of revolving  
43 loans and grants made; the total funds committed to such revolving  
44 loans and grants; and the total sum actually paid to such revolving

1                   loans and ~~grants-grants. and the total expenditure of administrative expense~~  
2                   ~~funds allocated from the Administrative Account.~~

3           (4)       Assessment and evaluation of the effects that approved projects have  
4                   had upon water pollution control and water supplies within the  
5                   purposes of this Chapter and with relation to the total water pollution  
6                   control and water supply problem.

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

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

10       "(a)       Local government units may execute debt instruments payable to the State in  
11       order to obtain revolving loans provided for in this Chapter. Local government units  
12       shall pledge as security for such obligations the user fee revenues derived from  
13       operation of the benefited facilities or systems only, or their faith and credit, or both.  
14       The faith and credit of such local government units shall not be pledged or be deemed to  
15       have been pledged unless the requirements of Article 4, Chapter 159 of the General  
16       Statutes have been met. ~~The Office of State Budget and Management and the State~~  
17       Treasurer, with the assistance of the Local Government Commission, shall develop and  
18       adopt appropriate debt instruments for use under this Chapter. The Local Government  
19       Commission shall develop and adopt appropriate procedures for the delivery of debt  
20       instruments to the State without any public bidding therefor."

21           Sec. 11. This act is effective upon ratification.