

NORTH CAROLINA GENERAL ASSEMBLY
1973 SESSION

CHAPTER 232
HOUSE BILL 525

AN ACT TO AMEND CHAPTER 909 OF THE 1971 SESSION LAWS, IN ORDER TO MAKE CLARIFYING AND TECHNICAL AMENDMENTS TO FACILITATE AND EXPEDITE THE AWARD OF STATE GRANTS TO UNITS OF GOVERNMENT FOR CONSTRUCTION AND IMPROVEMENT OF WASTEWATER TREATMENT WORKS, WASTEWATER COLLECTION SYSTEMS AND WATER SUPPLY SYSTEMS.

The General Assembly of North Carolina enacts:

Section 1. Subdivision (4), Section 8, Chapter 909 of the 1971 Session Laws, is amended to read as follows:

"(4) The applicant has agreed by official resolution to adopt and place into effect on or before completion of the project a schedule of fees and charges which will provide adequate funds for proper operation, maintenance and administration of the project."

Sec. 2. Section 9, Chapter 909 of the 1971 Session Laws, is amended to read as follows:

"**Sec. 9.** Application for grant; environmental impact statement; notice; hearing. — (a) Application. All applications for grants for water supply systems shall be filed with the State Board of Health; and all applications for grants for wastewater treatment works or wastewater collection systems shall be filed with the Board of Water and Air Resources. Every application for a grant from county allotment funds under this act shall so state and shall identify the county. Every applicant shall also file with the Department of Administration such information concerning the application as the Department of Administration may require by rules or regulations adopted pursuant to this act.

The Department of Administration, the State Board of Health, and the Board of Water and Air Resources shall develop jointly and adopt a standard form of application for grants under this act. The information required to be set forth in the application shall be sufficient to permit the respective agencies to determine the eligibility of the applicant and to establish the priority of the application, as set forth in this act.

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

(b) Environmental impact statement. Every applicant shall file with its application a statement setting forth the impact that the project for which grant funds are sought will have upon the environment of the area within which the project is proposed to be located. The statement shall set forth the impact of the project upon water resources, other natural resources, land use patterns, and such other factors as the State Board of Health or the Board of Water and Air Resources shall require by rules and regulations adopted pursuant to this act.

(c) Notice. Within 60 days after the receipt of any application filed pursuant to Section 7(c)(2) or Section 7(d)(1), the receiving agency shall give notice of the application, sufficient to describe the nature, location and the extent of the project for which grant funds are sought, as follows:

- (1) Notice by first class mail to the governing body or chief executive officer of every local government unit located within the county or counties in which the project for which grant funds are sought is located or proposed to be located.
- (2) Notice by publication once in a newspaper published or having general circulation within the county or counties in which the project for which grant funds are sought is located or proposed to be located.

(d) Hearings. A public hearing shall be held by the receiving agency on any application filed pursuant to Section 7(c)(2) or Section 7(d)(1), in accordance with the provisions of this subsection, upon written request received by the agency within 15 days after mailing the notice required by this section from any person named in subsection (c)(1) of this section. A public hearing may be held by the receiving agency upon written request received within 15 days after the date of publication of the notice from any citizen or taxpayer who is a resident of the county or counties in which the project is or is proposed to be located if it appears that the public interest will be served by such hearing. The written request shall set forth each objection to the proposed project or other reasons for requesting a hearing on the application and shall contain the name and address of the person(s) submitting it. The receiving agency shall consider all written objections to the proposed project and other statements along with the application, including any significant adverse effects that the proposed project may have on the environment, and shall determine if the public interest will be served by a hearing. The determination by the receiving agency shall be conclusive; but all written requests for a hearing shall be retained as a permanent part of the records pertaining to the application, whether or not the request is granted. A hearing may be held regarding any application filed pursuant to Section 7(c)(1) or Section 7(d)(2) if the receiving agency determines that the public interest will be served by such a hearing.

- (1) Hearings pursuant to this subsection shall be held not less than 30 nor more than 60 days after receipt of request for hearing and shall be conducted by a permanent staff member to be designated by the respective receiving agencies.
- (2) The hearing shall be held in Wake County unless, in the judgment of the appropriate receiving agency, the public interest will best be served by holding the hearing in the county in which the project for which grant funds are sought is located or proposed to be located. If the project is located or proposed to be located in two or more counties, such hearings shall be held in the county designated by the receiving agency.
- (3) Notice of the hearing shall be given as provided in subsection (c) of this section and shall be completed at least one week prior to the date of the hearing. The notice shall specify the time, place, and subject matter of the hearing.
- (4) Written or oral statements may be presented at any hearing. Persons entitled to submit a written statement or to make an oral presentation shall include any citizen, taxpayer, official of any agency or other entity of county or municipal government in the county or counties in which the project is located or is proposed to be located; any official of any agency or other entity of State or federal government; any official of any organization representing county or municipal government; and any officer or designated representative of a public or private organization which has as one of its principal aims the protection, preservation or conservation of the environment and natural resources. Persons desiring to make an oral presentation shall so advise the hearing officer prior to the time of the

meeting; and the hearing officer may impose reasonable time limitations on oral presentations.

- (5) The hearings officer shall keep minutes of the meeting and shall deliver them, along with his report and with recommendations, if any, to the appropriate receiving agency within 30 days after the date of the meeting, and upon receipt of the minutes of the public hearing and the hearing officer's report and recommendations, if any, the receiving agency shall give due and careful consideration to all testimony and other facts presented at such hearing which are directly related to the grant application.
- (6) Any person named in subsection (d)(4) of this section may file a written statement or comments relative to the subject matter of the hearing with the appropriate receiving agency at any time within 10 days after the date of the hearing; and such written statement or comment shall be a part of the minutes of said hearing."

Sec. 3. Subsection (a), Section 10, Chapter 909 of the 1971 Session Laws, is amended to read as follows:

"(a) Determination. Determination of priorities to be assigned each eligible application shall be made semiannually by the appropriate receiving agency during each fiscal year. Every eligible application filed pursuant to Section 7(c)(1) or Section 7(d)(2) shall be considered by the receiving agency with every other application filed pursuant to Section 7(c)(1) or Section 7(d)(2), respectively, and eligible for consideration during the same priority period, to determine the priority to be assigned to such application. Every eligible application filed pursuant to Section 7(c)(2) or Section 7(d)(1) shall be considered by the receiving agency with every other application filed from within the same county pursuant to Section 7(c)(2) or Section 7(d)(1), respectively, and eligible for consideration during the same priority period, to determine the priority to be assigned to such application. Any application which does not contain information sufficient to permit the receiving agency to determine either the eligibility of the applicant or the priority to be assigned the application shall not be deemed received for purposes of this section until such information is furnished by the applicant to the receiving agency."

Sec. 4. Subsection (b), Section 10, Chapter 909 of the 1971 Session Laws, is amended by striking the first sentence thereof, reading: "All applications for grants under this act received during each quarter of the fiscal year shall be assigned a priority for grant funds by the receiving agency."; and substituting in lieu thereof a sentence reading as follows:

"All applications for grants under this act eligible for consideration during each priority period shall be assigned a priority for grant funds by the receiving agency."

Sec. 5. Subsection (d), Section 10, Chapter 909 of the 1971 Session Laws, is amended to read as follows:

"(d) Failure to qualify. Any application filed pursuant to Section 7(c) or Section 7(d) that does not qualify for a grant as of the priority period in which the application was eligible for consideration by reason of the priority assigned the application shall be considered for a grant during the next succeeding priority period upon request of the applicant. If such application should again fail to qualify for a grant during the second priority period by reason of the priority assigned, the application shall receive no further consideration. An applicant may file a new application for a grant at any time, and may amend any pending application to include data or information which would tend to qualify the application for a higher priority."

Sec. 6. Chapter 909 of the 1971 Session Laws is amended by adding a new section immediately following Section 10 thereof, to be numbered Sec. 10.1, and to read as follows:

"Sec. 10.1. Withdrawal of grant commitment. — Failure of an applicant, within one year of the date of acceptance of a grant award, to (1) arrange for necessary financing of the proposed project, or (2) to award a contract for the construction of the proposed project, shall constitute

sufficient cause for withdrawal of the grant commitment. Prior to withdrawal of a grant commitment, the appropriate receiving agency shall give due consideration to any extenuating circumstances presented by the applicant as reasons for its failure to arrange necessary financing or to award a contract, and the grant commitment may be extended for an additional period of time if, in the judgment of the receiving agency, such an extension is justified."

Sec. 7. Effective date. — This act shall become effective on July 1, 1973; provided, that all pending applications eligible for consideration for a grant during the fiscal year ending June 30, 1973, which failed to qualify for a grant by reason of the priority assigned the application, shall be reconsidered for a grant during the first priority period established pursuant to this act.

In the General Assembly read three times and ratified, this the 18th day of April, 1973.