

NORTH CAROLINA GENERAL ASSEMBLY
1977 SESSION

CHAPTER 677
HOUSE BILL 1179

AN ACT TO AUTHORIZE THE ISSUANCE OF TWO HUNDRED THIRTY MILLION DOLLARS IN BONDS OF THE STATE TO PROVIDE FUNDS FOR ENVIRONMENTAL IMPROVEMENT THROUGH 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. Short title. This act shall be known and may be cited as the "North Carolina Clean Water Bond Act of 1977".

Sec 2. Purpose. The problem of polluted and befouled lakes, streams and estuaries in the State of North Carolina, already serious and destined to grow worse unless immediate action is taken, is a matter of vital concern to the General Assembly. A major factor in the pollution problem is the discharge of waste to the waters of this State by municipalities and other population concentrations from wastewater systems that are inadequate, antiquated and, in some instances, nonexistent.

A problem of equally pressing importance is that of insuring to the citizens of this State an adequate supply of pure water for domestic consumption. The steady growth of population and an increasingly urbanized population have created a constantly rising demand for water at the same time that the available sources of pure water are decreasing. The situation thus created has overtaxed the capacity of many existing water supply systems and has also led to a proliferation of small water supply systems which are costly to construct and operate and which frequently do not provide a desirable quantity or quality of water.

Although most of those units of government that are faced with these problems have made strenuous efforts to improve and expand existing facilities to meet the public need, many have found securing the necessary funds to be difficult, if not impossible. It is the intent and purpose of the General Assembly by this act to provide for the issuance of two hundred thirty million dollars (\$230,000,000) in bonds of this State, and to provide that the proceeds realized from the sale of the bonds shall be allocated primarily as grants to local units of government to stimulate the construction and improvement of wastewater treatment works, wastewater collection systems and water supply systems to provide a clean and healthful environment and an abundant supply of pure water.

Although the funds derived from the sale of the bonds authorized by this act shall be used primarily to encourage and assist local government units to meet their responsibilities, it is not intended nor is it possible for the State to assume those responsibilities. They must and properly ought to be met by local governments, responsive to the needs and demands of their citizens, through forceful and appropriate action to resolve existing environmental problems and to meet those that the future portends.

The funds to be derived from the sale of the bonds authorized by this act are sufficient to meet no more than a fraction of the needs which now exist and will arise in the immediate future. For this reason, although public necessity will be the primary consideration in granting funds, great emphasis must be placed on the availability of matching grants and

loans from other sources; the creation of efficient systems of regional wastewater disposal and regional water supply; and the willingness and ability of local government units to meet their responsibilities through sound fiscal policies, creative planning and efficient operation and management.

The General Assembly directs, therefore, that those agencies of this State charged with administration of this act, in order to achieve the wisest use of the funds herein provided for, shall exercise the utmost care and judgment in approving grants under this act, for which the ultimate criterion shall be the greatest benefit to the greatest number.

Sec. 3. Definitions. As used in this act, unless the context otherwise requires:

- (1) "Environmental Management Commission" shall mean the North Carolina Environmental Management Commission created by Part 4 of Article 7 of Chapter 143B of the General Statutes, or, should said commission be abolished or otherwise divested of its functions under this act, the public body succeeding it in its principal functions, or upon which are conferred by law the rights, powers and duties given by this act to said commission.
- (2) "Construction cost" shall mean the actual cost of planning, designing, and constructing any project for which a grant is made under this act including planning; environmental assessment; sewer system analysis, evaluation and rehabilitation; engineering; legal, fiscal, administrative and contingency costs for water supply systems, wastewater collection systems, and wastewater treatment works and any extensions, improvements, remodeling, additions, or alterations to existing systems. In addition construction cost shall include any fees payable to the Environmental Management Commission pursuant to G.S. 143-215.3(a)(1) for review of grant applications and fees for inspections pursuant to Section 15 of this act. Such costs may include the cost of real property as provided for in this act, but shall not include recurring annual expenditures for administration, repairs, operation and maintenance of any wastewater or water supply systems.
- (3) "Department of Administration" shall mean the North Carolina Department of Administration created by Article 9 of Chapter 143B of the General Statutes, or, should said department be abolished or otherwise divested of its functions under this act, the public body succeeding it in its principal functions, or upon which are conferred by law the rights, powers and duties given by this act to said department.
- (4) "Receiving agency" shall mean the Division of Health Services with relation to receipt of applications for grants for water supply systems and the Environmental Management Commission with relation to receipt of applications for grants for wastewater treatment works or wastewater collection systems.
- (5) "Division of Health Services" shall mean the Division of Health Services of the North Carolina Department of Human Resources, or, should said division be abolished or otherwise divested of its functions under this act, the public body succeeding it in its principal functions, or upon which are conferred by law the rights, powers and duties given by this act to said division.
- (6) "State Treasurer" shall mean the Treasurer of the State of North Carolina as provided in Article III of the Constitution of North Carolina and vested with those powers and duties set forth in Article 6 of Chapter 147 of the General Statutes.
- (7) "Unit of government" shall mean any incorporated city, town or village, county, sanitary district, metropolitan sewerage district, water or sewer

district, watershed improvement district, water or sewer authority, special purpose district, other municipality, or any agency, board, commission, department or political subdivision or public corporation of the State, now or hereafter created or established, empowered to provide water supply systems, wastewater collection systems or wastewater treatment works.

(8) "Wastewater collection system" shall mean a unified system of pipes, conduits, pumping stations, force mains, and appurtenances for collecting and transmitting water-carried human wastes and other wastewater from residences, industrial establishments or any other buildings.

(9) "Wastewater treatment works" shall mean the various facilities and devices used in the treatment of sewage, industrial waste or other wastes of a liquid nature, including the necessary intercepting sewers, outfall sewers, pumping, power, and other equipment and their appurtenances.

(10) "Water supply system" shall mean a public water supply system consisting of facilities and other works for supplying, treating and distributing potable water including, but specifically not limited to, impoundments, reservoirs, wells, intakes, water filtration plants and other treatment facilities, tanks and other storage facilities, transmission mains, distribution piping, pumping equipment and all other necessary appurtenances, equipment and structures.

Sec. 4. Bond election. (a) North Carolina Clean Water Bonds. Subject to a favorable vote of a majority of the qualified voters of the State who shall vote thereon in an election called and held as hereinafter provided, the State Treasurer is hereby authorized, by and with the consent of the Governor and Council of State, to issue and sell, at one time or from time to time, bonds of the State, to be designated "State of North Carolina Clean Water Bonds", in an aggregate principal amount not exceeding two hundred thirty million dollars (\$230,000,000).

(b) Referendum. The question of the issuance of the two hundred thirty million dollar (\$230,000,000) State of North Carolina Clean Water Bonds shall be submitted to the qualified voters of the State of North Carolina at an election to be held on a date not later than November 8, 1977, to be fixed by the Governor by a proclamation issued by him; provided, that the election herein provided for may be held on the same day as any other State, county, municipal or district election, and any other State, county, municipal or district election may be validly held on the same day as the bond election provided for in this act. Notice of the bond election shall be given by publication at least twice in a newspaper published in each county in the State or having a general circulation therein, and the election and the registration of voters therefor shall be held under and in accordance with the general laws of the State. Absentee ballots shall be authorized in said election. The State shall reimburse the counties of the State for all necessary expenses incurred in holding the election and registration therefor, the same to be paid out of the Contingency and Emergency Fund unless the payment of such expenses is otherwise expressly provided for. The State Board of Elections shall cause to be printed and distributed the ballots which are to be used in said election, which ballots shall be substantially in the following form:

"OFFICIAL BALLOT
TWO HUNDRED THIRTY MILLION DOLLARS
STATE OF NORTH CAROLINA
CLEAN WATER BONDS

Instructions for Marking Ballot

(a) To vote in favor of the issuance of the bonds, make a cross (X) mark in the square opposite the words 'For the issuance of \$230,000,000 State of North Carolina Clean Water Bonds'.

(b) To vote against the issuance of the bonds, make a cross (X) mark in the square opposite the words 'Against the issuance of \$230,000,000 State of North Carolina Clean Water Bonds'.

(c) If you tear or deface or wrongly mark this ballot, return it and get another.

- For the issuance of \$230,000,000 State of North Carolina Clean Water Bonds.
- Against the issuance of \$230,000,000 State of North Carolina Clean Water Bonds.

_____ (Facsimile Signature)
Chairman, State Board of Elections."

Those voting in the election who are in favor of the issuance of the bonds shall vote by making an X in the square opposite the words "For the issuance of \$230,000,000 State of North Carolina Clean Water Bonds".

Those opposed to the issuance of the bonds shall vote by making an X in the square opposite the words "Against the issuance of \$230,000,000 State of North Carolina Clean Water Bonds".

Notwithstanding the foregoing provisions of this subsection, voting machines may be used in accordance with rules and regulations prescribed by the State Board of Elections.

If a majority of those voting thereon in the election shall vote in favor of the issuance of the bonds, the bonds shall be issued as hereinbefore provided. In the event a majority of those voting thereon in the election shall vote against the issuance of the bonds, the bonds shall not be issued.

The result of the election shall be canvassed and declared as provided by law for the holding of elections for State officers and the result thereof certified by the State Board of Elections to the Secretary of State of North Carolina, in the manner and at the time provided by the general election laws of the State.

Sec. 5. Issuance of bonds. (a) Terms and conditions. Bonds authorized by this act shall bear such date or dates, shall be serial bonds, and shall mature at such times and in such amounts, not exceeding 30 years from their date or respective dates, and may be made redeemable before maturity, at the option of the State, at such price or prices and under such terms and conditions, and shall bear interest at such rate or rates, all as may be fixed by the State Treasurer with the approval of the Governor and Council of State.

(b) Signatures; form and denomination; registration; reconversion. The bonds issued pursuant to this act shall be signed on behalf of the State of North Carolina by the Governor or shall bear his facsimile signature; shall be signed by the State Treasurer, or shall bear his facsimile signature; shall bear the Great Seal of the State or a facsimile thereof impressed or imprinted thereon; and shall carry interest coupons which shall bear a facsimile of the signature of the State Treasurer. In the event that the bonds shall bear the facsimile signature of the State Treasurer, the bonds shall also be signed by an assistant as designated by the State Treasurer. Should any officer whose signature or facsimile appears on any bonds or coupons cease to be such officer before the delivery of the bonds, such signature or facsimile shall nevertheless have same validity for all purposes as if the officer had remained in office until delivery. The form and denomination of the bonds shall be as the State Treasurer may determine in conformity with this act, and the bonds shall be subject to registration as is now or hereafter may be provided by law for State bonds, and provision may also be made for the reconversion into coupon bonds of any bonds registered as to both principal and interest.

(c) Manner of sale; expenses. Subject to determination by the Governor and Council of State as to the manner in which the bonds shall be offered for sale whether by publishing notices in certain newspapers and financial journals or by mailing notices or by inviting bids by correspondence or otherwise, the State Treasurer is authorized to sell the bonds at one time or from time to time at the best price obtainable, but in no case for less than par and accrued

interest. All expenses incurred in the sale and issuance of the bonds and any bond anticipation notes herein authorized shall be paid from the proceeds of the sale of such bonds or bond anticipation notes.

The proceeds of sale of the bonds and the bond anticipation notes herein authorized, except the proceeds of bonds the issuance of which has been anticipated by such bond anticipation notes, shall be placed by the State Treasurer in a special fund known as the "Clean Water Fund" and shall be disbursed only for the purposes provided in this act.

(d) Notes; repayment.

(1) By and with the consent of the Governor and Council of State, who shall determine the rate or rates or maximum rate of interest and the date or approximate date of payment, the State Treasurer is hereby authorized to borrow money at the lowest rate of interest obtainable, and to execute and issue notes of the State for the same, but only in the following circumstances and under the following conditions:

- a. For anticipating the sale of any bonds to the issuance of which the Governor and Council of State shall have given consent, if the State Treasurer shall deem it advisable to postpone the issuance of the bonds.
- b. For the payment of interest upon or any installment of principal of any of the bonds then outstanding, if there shall not be sufficient funds in the State Treasury with which to pay the interest or installment of principal as they respectively become due.
- c. For the renewal of any loan evidenced by notes herein authorized.

(2) Funds derived from the sale of bonds herein authorized shall be used in the payment of any bond anticipation notes that may have been issued in anticipation of the sale of bonds and any renewals of such notes; and funds provided by the General Assembly for payment of the interest on or principal of bonds herein authorized shall be used in paying the interest on or principal of any notes and any renewals thereof the proceeds of which shall have been used in paying interest on or principal of the bonds. Interest payments upon the notes may be evidenced by interest coupons in the State Treasurer's discretion.

(e) Coupons receivable in payment, etc. The coupons appertaining to the bonds and notes after maturity shall be receivable in payment of all taxes, debts, dues, licenses, fines and demands of any kind whatever due the State.

(f) Tax exemptions. All of the bonds, notes and coupons authorized by this act shall be exempt from all State, county and municipal taxation or assessment, direct or indirect, general or special, whether imposed for the purpose of general revenue or otherwise, and the interest on the bonds and notes shall not be subject to taxation as to income, nor shall the bonds, notes or coupons be subject to taxation when constituting a part of the surplus of any bank, trust company or other corporation.

(g) Investment in bonds lawful. It shall be lawful for all executors, administrators, guardians and fiduciaries generally, and all sinking fund commissions, to invest any moneys in their hands in said bonds and notes.

(h) Full faith, credit, taxing power pledged. The full faith, credit and taxing power of the State are hereby pledged for the payment of the principal of and the interest on the bonds and notes herein authorized.

Sec. 6. Clean Water Fund. There is hereby created in the Department of Administration a fund to be known as the Clean Water Fund, to be administered by the Department of Administration, which shall be responsible for receipt and disbursement of all moneys as provided in this act.

Sec. 7. Use of bond proceeds; allocation. (a) Grants.

(1) Purpose. All moneys paid into the Clean Water Fund, other than those set aside for administrative expenses and to defray expenses incurred in the sale of the bonds and the issuance of notes herein authorized, shall be used for grants to units of government for the construction of new or the improvement or expansion of existing wastewater treatment works, wastewater collection systems and water supply systems. If the purchase or acquisition of real property constitutes a substantial portion of the necessary construction costs of any project, and if the applicant demonstrates that it is incapable of bearing such costs, the receiving agency, in its sole discretion, may authorize the use of grant funds, in such amount as it shall determine, for such purposes; but if any portion of the project funds shall be a federal grant or loan which may not be used for such purposes, then no grant for such purposes shall be made under this act except as hereinafter provided.

(2) Limitation. The maximum grant made under this act shall not exceed twenty-five percent (25%) of the total construction costs of any project or fifty percent (50%) of the nonfederal share, whichever is less, unless a grant of a greater percentage is determined by the receiving agency to be necessary for the project:

- a. To qualify for a federal loan or grant.
- b. To meet an extreme public necessity.
- c. To provide funds for the purchase or acquisition of necessary real property when federal grant or loan funds may not be used for such purposes. In no event shall any grant made under this act exceed thirty percent (30%) of the total construction cost of any project, and to the extent that a grant exceeds twenty-five percent (25%) of project costs, the percentage in excess of twenty-five percent (25%) shall require approval by the Advisory Budget Commission.

(b) Contingency Account. The Department of Administration, with the concurrence of the Advisory Budget Commission, from time to time shall allocate funds, not to exceed seven million five hundred thousand dollars (\$7,500,000) in the aggregate, from the proceeds of the sale of the bonds herein authorized to a Contingency Account, which shall be maintained and administered as follows:

(1) Subject to the approval of the Advisory Budget Commission, the Department of Administration may make allocations from the Contingency Account for the following purposes:

- a. To meet the administrative expenses of the Department of Administration, Department of State Treasurer, the Division of Health Services, and the Environmental Management Commission incurred in the administration of this act in excess of the normal operating expenses of the agencies; but the total administrative expenses, in the aggregate, allocated from the Contingency Account shall not exceed one percent (1%) of the proceeds of the bond sale authorized by this act, exclusive of such funds as may be allocated to the Contingency Account from the Contingency and Emergency Fund, as provided in subdivision (2) of this subsection.
- b. To provide funds for new grants or for supplemental wastewater treatment works grants when the funds allocated for any fiscal year are insufficient and the Advisory Budget Commission, upon recommendation of the receiving agency and the Department of

Administration, determines that there are sufficiently compelling reasons for providing funds from the Contingency Account.

(2) Each agency entitled to receive administrative expense funds from the Contingency Account shall prepare an itemized estimate of administrative funds required for the succeeding fiscal year, and the Division of Health Services, Department of State Treasurer and the Environmental Management Commission shall deliver their estimates to the Department of Administration at least 45 days prior to the beginning of the fiscal year for which the funds are required. The Department of Administration shall determine the administrative expense funds available and, along with its recommendations, shall deliver the estimates of the Division of Health Services, Department of State Treasurer and of the Environmental Management Commission and its own estimate, if any, to the Advisory Budget Commission at least 30 days prior to the beginning of the fiscal year for which the funds are required. Any administrative expense funds approved by the Advisory Budget Commission shall be disbursed by the Department of Administration to the appropriate agency. If the administrative expense funds disbursed to any agency shall prove insufficient, it may apply at any time during the fiscal year for additional funds in the manner above provided. If the funds provided in this act for administrative expenses are exhausted, the Department of Administration, with the concurrence of the Advisory Budget Commission, may apply for disbursement to the Contingency Account of funds for administrative expenses from the Contingency and Emergency Fund. Funds in the account for administrative expenses not used to defray agency expenses, other than funds disbursed from the Contingency and Emergency Fund, shall be used for the other purposes of this act. Unused funds in the account for administrative expenses disbursed from the Contingency and Emergency Fund shall be returned to said fund.

(3) To the extent that the Advisory Budget Commission deems feasible and appropriate, funds in the Contingency Account, other than funds for administrative expenses and for costs and expenses of sale of bonds and issuance of notes, shall be made available equally to the Division of Health Services and to the Environmental Management Commission; and to this end, any funds remaining in the Contingency Account, at the end of the fiscal year beginning July 1, 1981, other than administrative expense funds, shall be allocated between the two agencies for grants pursuant to this act in inverse ratio to the aggregate allocations from the Contingency Account to each agency during the preceding five fiscal years, as determined from the accounts of the Department of Administration, unless the Advisory Budget Commission shall determine, in its discretion, that some other distribution is more appropriate.

(c) Pollution Control Account. The sum of one hundred twelve million five hundred thousand dollars (\$112,500,000) of the proceeds of the sale of the bonds authorized by this act shall be allocated to a Pollution Control Account, from which shall be made grants to units of government for the construction, improvement or expansion of wastewater treatment works and wastewater collection systems and, where authorized, for the acquisition of real property or interests in real property necessary for the construction, expansion or improvement of such works or systems. The Department of Administration shall disburse no funds from the Pollution Control Account except upon receipt by it of written approval of the disbursement from the Environmental Management Commission.

- (1) Seventy-five million dollars (\$75,000,000) of the funds allocated to the Pollution Control Account shall be used exclusively for the purpose of providing the State's share of the funds required for an approved wastewater treatment works project to qualify for federal grants; provided, however, that any funds which cannot be used exclusively for such purpose shall be used exclusively for the purpose of grants to pay a portion of the nonfederal share (not to exceed the limitations set forth in subsection (a)(2) of Section 7 of this act) of the eligible construction costs of approved wastewater treatment works projects which qualify for federal grants.
- (2) The sum of thirty-seven million five hundred thousand dollars (\$37,500,000) allocated to the Pollution Control Account shall be allotted among the various counties of the State in the proportion that the population of each county bears to the total population of the State, as such populations were determined by the 1970 Decennial Census of the United States Department of Commerce exclusively for grants to the counties or units of government therein for wastewater collection systems projects; and the allocations of funds for grants under the provisions of this subdivision shall not be made in an aggregate amount exceeding seven million five hundred thousand dollars (\$7,500,000) in the first fiscal year, beginning July 1, 1977, or in an aggregate amount exceeding fifteen million dollars (\$15,000,000) in the first two fiscal years, or in an aggregate amount exceeding twenty-two million five hundred thousand dollars (\$22,500,000) in the first three fiscal years, or in an aggregate amount exceeding thirty million dollars (\$30,000,000) in the first four fiscal years, or in an aggregate amount exceeding thirty-seven million five hundred thousand dollars (\$37,500,000) in the fifth fiscal year.

(d) Water Supply Systems Account. The sum of one hundred ten million dollars (\$110,000,000) of the proceeds of sale of the bonds authorized by this act shall be allocated to a Water Supply Systems Account from which shall be made grants to units of government for the construction, expansion or improvement of water supply systems and, where authorized, for the acquisition of real property or interests in real property necessary for the construction, expansion, or improvement of water supply systems. The Department of Administration shall disburse no funds from the Water Supply Systems Account except upon receipt by it of written approval of the disbursement from the Division of Health Services.

- (1) Seventy-nine million dollars (\$79,000,000) of the funds allocated to the Water Supply Systems Account shall be allotted among the various counties of this State in the proportion that the population of each county bears to the total population of the State, as such populations were determined by the 1970 Decennial Census of the United States Department of Commerce for grants to the counties or units of government therein; and the allocations of funds for grants under the provisions of this subdivision shall not be made in an aggregate amount exceeding fifteen million eight hundred thousand dollars (\$15,800,000) in the first fiscal year, beginning July 1, 1977, or in an aggregate amount exceeding thirty-one million six hundred thousand dollars (\$31,600,000) in the first two fiscal years, or in an aggregate amount exceeding forty-seven million four hundred thousand dollars (\$47,400,000) in the first three fiscal years, or in an aggregate amount exceeding sixty-three million two hundred thousand dollars (\$63,200,000) in the first four fiscal years, or in an aggregate amount exceeding seventy-nine million dollars (\$79,000,000) in the fifth fiscal year.
- (2) Thirty-one million dollars (\$31,000,000) of the funds allocated to the Water Supply Systems Account shall be used for the purpose of providing grant

funds for water supply systems projects generally and not upon a county allotment basis and the allocations of funds for grants under the provisions of this subdivision shall not be made in an aggregate amount exceeding six million two hundred thousand dollars (\$6,200,000) in the first fiscal year, beginning July 1, 1977, or in an aggregate amount exceeding twelve million four hundred thousand dollars (\$12,400,000) in the first two fiscal years, or in an aggregate amount exceeding eighteen million six hundred thousand dollars (\$18,600,000) in the first three fiscal years, or in an aggregate amount exceeding twenty-four million eight hundred thousand dollars (\$24,800,000) in the first four fiscal years, or in an aggregate amount exceeding thirty-one million dollars (\$31,000,000) in the fifth fiscal year.

(e) Annual allocations. Allocations of grants under the provisions of this act, including grants made from the Contingency Account, shall not be made in an aggregate amount exceeding forty-six million dollars (\$46,000,000) in the first fiscal year, beginning July 1, 1977, or in an aggregate amount exceeding ninety-two million dollars (\$92,000,000) in the first two fiscal years, or in an aggregate amount exceeding one hundred thirty-eight million dollars (\$138,000,000) in the first three fiscal years, or in an aggregate amount exceeding one hundred eighty-four million dollars (\$184,000,000) in the first four fiscal years, or in an aggregate amount exceeding two hundred thirty million dollars (\$230,000,000) in the first five fiscal years; provided, that the aggregate allocations for any fiscal year, except the fifth fiscal year, may be exceeded upon concurrence of the Advisory Budget Commission if the funds in excess of the aggregate sum are required to provide the State's share of funds for projects pursuant to subsection (c)(1) of this section.

Sec. 8. Continuity of grant funds. (a) Any funds uncommitted for grants as of June 30, 1977, under either Section 7(c) or Section 7(d) of the Clean Water Bond Act of 1971 shall be allocated thereafter for grants pursuant to Section 7(c) and Section 7(d) of this act and administered in accordance with existing rules and regulations until such time as rules and regulations as provided for in Section 16 of this act shall become effective.

(b) Grant funds under Section 7(c)(1) and (2) and Section 7(d)(1) and (2) may be administered according to existing rules and regulations under the Clean Water Bond Act of 1971 until such time as rules and regulations as provided for in Section 16 of this act shall become effective.

(c) Any funds uncommitted for grants as of June 30, 1982, under Section 7(c)(2) shall be allocated thereafter for grants pursuant to Section 7(c)(1); funds uncommitted under Section 7(d)(1) shall be allocated for grants after June 30, 1982, pursuant to Section 7(d)(2).

(d) Funds under this act shall be allocated for grants except that any funds which are uncommitted on June 30, 1987, shall revert to the General Fund.

Sec. 9. Application for grant; environmental assessment; notice; hearing. (a) Application. All applications for grants for water supply systems shall be filed with the Division of Health Services and all applications for grants for wastewater treatment works or wastewater collection systems shall be filed with the Environmental Management Commission. 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 Division of Health Services and the Environmental Management Commission may develop jointly and adopt a standard form of application for grants under this act. Any application for construction grants under the Federal Water Pollution Control Act may be considered as an application for grants under Section 7(c)(1) of 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 assessment. Every applicant shall file with its application an assessment 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 assessment shall set forth the impact of the project upon water resources, other natural resources, land use patterns, and such other factors as the Division of Health Services or the Environmental Management Commission shall require by duly adopted rules and regulations. Any environmental assessment required as part of an application for construction grants under the Federal Water Pollution Control Act may satisfy the requirements of this provision. If, after reviewing the environmental assessment, the Division of Health Services or the Environmental Management Commission concludes that an environmental impact statement is required, then the application will receive no further consideration until a final environmental impact statement has been completed and approved.

(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.

Sec. 10. Eligibility. No applicant shall be eligible for a grant under this act unless it shall demonstrate to the satisfaction of the receiving agency that:

- (1) The applicant is a unit of government as defined in this act.
- (2) The applicant has the financial capacity to provide its share of project funds.

- (3) The applicant has substantially complied or will substantially comply with all applicable laws, rules, regulations and ordinances, federal, State and local.
- (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. 11. Priorities. (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 the information required by this act or regulations adopted by the receiving agency(s) to implement the act shall not be deemed received until such information is furnished by the applicant to the receiving agency.

(b) Priority factors. 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. In determining priorities, the receiving agency:

- (1) shall give primary consideration to the public necessity of the project in promoting the public health, safety and welfare; and
- (2) shall also give consideration to:
 - a. the eligibility of the proposed project for federal grants;
 - b. the compatibility of the proposed project with the State's general program of water supply and water pollution control, any applicable regional planning program and the population to be served;
 - c. the fiscal responsibility of the applicant;
 - d. the need of the applicant for funding assistance.

(c) Any priority system established for construction grants under the Federal Water Pollution Control Act shall satisfy the requirements of this section.

(d) Assignment of priority. A written statement relative to each priority assigned shall be prepared by the agency assigning the priority and shall be attached to the application; and the priority assigned shall be conclusive.

(e) 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. 12. 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. 13. Disbursement of funds. No funds shall be disbursed by the Department of Administration for any grant until it has received from the appropriate receiving agency a certificate of eligibility to the effect that the applicant meets all eligibility criteria, and that notice and hearing requirements of this act have been met.

In the event that the grant payments are to be made in installments, no installment payment shall be disbursed by the Department of Administration until it has received from the appropriate receiving agency a written request for disbursement.

Sec. 14. Payment of grants. The receiving agency, in its sole discretion, may determine whether the payment of any grant made under this act shall be in a lump sum or in installments as progress payments and shall, by adoption of appropriate rules and regulations, provide for the manner of approval and payment of grants.

Sec. 15. Inspection. Inspection of a project for which a grant has been made under this act may be performed by qualified personnel of the Division of Health Services or the Environmental Management Commission or may be performed by qualified professional engineers, registered in this State, who have been approved by the Division of Health Services or the Environmental Management Commission; but no person shall be approved to perform inspections who is an officer or employee of the unit of government to which the grant was made or who is an owner, officer, employee or agent of a contractor or subcontractor engaged in the construction of the project for which the grant was made. For the purpose of payment of inspection fees, inspection services shall be included in the term "construction cost" as used in this act.

Sec. 16. Rules and regulations. (a) Adoption. The Department of Administration, the Commission of Health Services and the Environmental Management Commission, in order to accomplish the efficient administration and uniform application of this act, are empowered to adopt, modify and revoke rules of procedure establishing and amplifying the procedures to be followed in the administration of this act and regulations interpreting and applying the provisions of this act. To the extent practicable and feasible, uniform rules and regulations may be jointly adopted, and no rule or regulation jointly adopted may be modified or revoked except upon concurrence of all three agencies.

(b) Approval; duplication. No rule or regulation adopted by the Department of Administration, the Commission of Health Services or the Environmental Management Commission, or each of them, pursuant to this act, shall become effective until approved by the Advisory Budget Commission and until printed or otherwise duplicated and a certified copy filed with the Secretary of State or other official of the State designated by law.

(c) Copies furnished. A copy of its rules and regulations adopted pursuant to this act shall be furnished free of charge by the receiving agency and the Department of Administration to any governmental unit. Any other person shall be entitled to receive a copy upon payment of a reasonable charge for printing or duplication if the receiving agency or Department of Administration shall so require.

Sec. 17. Federal grants and loans. In order to carry out the purpose of this act to secure the greatest benefits possible to the citizens of this State from the funds herein provided for, the Department of Administration, the Commission for Health Services and the Environmental Management Commission are authorized and directed to adopt such rules, regulations and criteria pursuant to and in accordance with this act as are necessary and appropriate to conform to federal requirements for federal grants and loans for any of the purposes set forth in this act. If any applicant for grant funds under this act for a project otherwise eligible for a federal grant or loan fails to qualify for such grant or loan by reason of the failure or refusal of the applicant to meet federal requirements, the receiving agency, in its

sole discretion and determination, may refuse the grant applied for under this act. Every grant made pursuant to this act for any project for which federal funds are available shall be conditional upon approval of the applicant's request for federal funds.

Sec. 18. Annual reports to Advisory Budget Commission. The Department of Administration, the State Treasurer, the Division of Health Services, and the Environmental Management Commission shall prepare and file on or before July 31 of each year with the Advisory Budget Commission a consolidated report for the preceding fiscal year concerning the sale and allocation of the proceeds of sale of the bonds authorized by this act.

(a) Department of Administration. The portion of the report prepared by the Department of Administration shall set forth for the preceding fiscal year itemized and total allocations from the Contingency Account for grants and administrative expenses; itemized and total allocations from the Pollution Control Account of grants authorized by the Environmental Management Commission; and itemized and total allocations from the Water Supply Systems Account of grants authorized by the Division of Health Services. The Department of Administration shall also prepare a summary report of all bond funds received by and all allocations made from the Clean Water Fund for each fiscal year, the total funds received and allocations made, and unallocated funds on hand in each account as of the end of the preceding fiscal year.

(b) State Treasurer. The portion of the report prepared by the State Treasurer shall set forth the funds realized from the proceeds of sales of bonds or issuance of bond anticipation notes authorized by this act during the preceding fiscal year; the costs and expenses of such sales, or issuance; the total funds realized from the proceeds of sales of bonds or issuance of bond anticipation notes for all preceding fiscal years and the total costs and expenses of such sales or issuances; and the total amount of the bonds authorized but unissued.

(c) Environmental Management Commission and Division of Health Services. The portions of the report prepared by the Environmental Management Commission and the Division of Health Services:

- (1) Shall identify each grant made by the receiving agency during the preceding fiscal year; the total amount of the grant commitments; the sums actually paid during the preceding fiscal year to each grant made and to each grant previously committed but unpaid; and the total grant funds paid during the preceding fiscal year.
- (2) Shall itemize the expenditure of any administrative expense funds allocated from the Contingency Account during the preceding fiscal year.
- (3) Shall contain a summary for all preceding fiscal years of the total number of grants made; the total funds committed to such grants; the total sum actually paid to such grants; and the total expenditure of administrative expense funds allocated from the Contingency Account.
- (4) Shall contain an assessment and evaluation of the effects that approved projects have had upon water pollution control and water supplies within the purposes of this act and with relation to the total water pollution control and water supply problem.

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

Sec. 19. Severability. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared to be severable.

Sec. 20. During the 1977-79 biennium the State Treasurer shall sell no bonds pursuant to this act which will require debt service payments during the 1977-79 biennium

unless there are sufficient funds to pay such debt service payments in the State Treasurer's debt service appropriation for the 1977-79 biennium.

Sec. 21. Effective date. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 22nd day of June, 1977.