

GENERAL ASSEMBLY OF NORTH CAROLINA  
1987 SESSION

CHAPTER 796  
SENATE BILL 110

AN ACT TO CREATE THE NORTH CAROLINA CLEAN WATER LOAN AND  
GRANT PROGRAM.

The General Assembly of North Carolina enacts:

Section 1. The General Statutes are amended by adding a new Chapter to read:

"Chapter 159G.

"North Carolina Clean Water Revolving Loan  
and Grant Act of 1987.

"§ 159G-1. **Short title.**—This Chapter shall be known and may be cited as the 'North Carolina Clean Water Revolving Loan and Grant Act of 1987'.

"§ 159G-2. **Purpose.**—The General Assembly hereby recognizes that a critical need exists in this State to provide for a low-interest funding source for municipal water and wastewater capital facilities. Local government efforts to meet this need have been restricted by the inability of many units to finance necessary improvements to inadequate or nonexistent water supply and wastewater treatment systems. The decrease in financial capacity has resulted in large part from the diminished availability of federal loans and grants and the elimination of the federal general revenue sharing program, which funded a wide range of local capital improvements.

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

It is the intent and purpose of the General Assembly by this Chapter to create a program to facilitate early construction of these environmental improvements by establishing a revolving loan fund for financing such projects. This fund will enable local government units to obtain low-interest loans for financing projects for wastewater treatment and water supply, and for certain emergency purposes. It is the further intent and purpose of the General Assembly to provide grants to local government units for wastewater treatment and water supply facilities. The General Assembly seeks by this Chapter to encourage and assist local government units to meet their responsibilities to their citizens to maintain a clean and healthful environment and an abundant supply of pure water and further to provide an adequate base for economic growth.

"§ 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.
- (3) 'Clean Water Revolving Loan and Grant Fund' means the fund established in the Office of State Budget and Management to carry out the provisions of this Chapter, with various accounts therein as herein provided.
- (4) 'Construction costs' means the actual costs of planning, designing and constructing any project for which a revolving loan or grant is made under this Chapter including planning; environmental assessment; wastewater system analysis, evaluation and rehabilitation; engineering; legal, fiscal, administrative and contingency costs for water supply systems, wastewater collection systems, wastewater treatment works and any extensions, improvements, remodeling, additions, or alterations to existing systems. Construction costs may include excess or reserve capacity costs, attributable to no more than 20-year projected domestic growth, plus ten percent (10%) unspecified industrial growth. In addition, construction costs shall include any fees payable to the Environmental Management Commission or the Division of Health Services for review of applications and grant of permits, and fees for inspections under G.S. 159G-314. Construction costs may also include the costs for purchase or acquisition of real property.
- (5) 'Grant' means a sum of money given by the State to a local government unit to subsidize the construction costs of a project authorized by this Chapter, without any obligation on the part of such unit to repay such sum.
- (6) 'Commission for Health Services' means the Commission for Health Services of the Department of Human Resources.
- (6a) 'Debt instrument' means an instrument in the nature of a promissory note executed by a local government unit under the provisions of this Chapter, to evidence a debt to the State and obligation to repay the principal, plus interest, under stated terms.
- (7) 'Division of Health Services' means the Division of Health Services of the Department of Human Resources.
- (8) 'Environmental Management Commission' means the Environmental Management Commission of the Department of Natural Resources and Community Development created by Article 7, Part 4 of Chapter 143B of the General Statutes.

- (9) 'Local Government Commission' means the Local Government Commission of the Department of the State Treasurer, established by Article 2 of Chapter 159 of the General Statutes.
- (10) 'Local government unit' means a county, city, town, incorporated village, sanitary district, metropolitan sewerage district, metropolitan water district, county water and sewer district, water and sewer authority or joint agency created pursuant to Part 1 of Article 20 of Chapter 160A of the General Statutes.
- (11) 'Office of State Budget and Management' means the Office of State Budget and Management established by law.
- (12) 'Receiving agency' means the Division of Health Services with respect to receipt of applications for revolving loans and grants for water supply systems, and the Environmental Management Commission and the Division of Environmental Management with respect to receipt of applications for revolving loans and grants for wastewater systems.
- (13) 'Revolving construction loan' means a sum of money loaned by the State to a local government unit to subsidize the construction costs of a project authorized by this Chapter, with an obligation on the part of such unit to repay such sum, the proceeds of such repayment to be deposited in the Water Pollution Control Revolving Fund.
- (14) 'Revolving emergency loan' means a sum of money loaned by the State to a local government unit upon a certification, as provided in this Chapter, of a serious public health hazard, with an obligation on the part of such unit to repay such sum.
- (15) 'Revolving loan' includes a revolving construction loan and an emergency loan.
- (15a) 'State' means the State of North Carolina.
- (15b) 'State Treasurer' means the Treasurer of the State elected pursuant to Article III, Section 7 of the Constitution or his designated representative.
- (16) 'Wastewater Accounts' means the various accounts in the Clean Water Revolving Loan and Grant Fund established in the Office of State Budget and Management under this Chapter for revolving loans and grants for wastewater treatment work and wastewater collection system projects.
- (17) 'Wastewater collection system' means a unified system of pipes, conduits, pumping stations, force mains, and appurtenances other than interceptor sewers, for collecting and transmitting water-carried human wastes and other wastewater from residences, industrial establishments or any other buildings, and owned by a local government unit.
- (18) 'Wastewater treatment works' means the various facilities and devices used in the treatment of sewage, industrial waste or other wastes of a liquid nature, including the necessary interceptor sewers, outfall

sewers, phosphorous removal equipment, pumping, power and other equipment and their appurtenances.

- (19) 'Water Supply Accounts' means the various accounts in the Clean Water Revolving Loan and Grant Fund established in the Office of State Budget and Management under this Chapter for revolving loans and grants for water supply system projects.
- (20) 'Water supply system' means a public water supply system consisting of facilities and works for supplying, treating and distributing potable water including, but not limited to, impoundments, reservoirs, wells, intakes, water filtration plants and other treatment facilities, tanks and other storage facilities, transmission mains, distribution piping, pipes connecting the system to other public water supply systems, pumping equipment and all other necessary appurtenances, equipment and structures.

**"§ 159G-4. Appropriations.**—(a) Of the funds appropriated to the Clean Water Revolving Loan and Grant Fund, the amount required in each fiscal year to provide the State match of any federal funds deposited into the Water Pollution Control Revolving Fund shall be allocated to that fund.

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

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|                                  | <u>FY 1987-88</u>   | <u>FY 1988-89</u> |
|----------------------------------|---------------------|-------------------|
|                                  | Wastewater Accounts |                   |
| General Wastewater Revolving     |                     |                   |
| Loan Account                     | 45.00%              | 45.00%            |
| Emergency Wastewater Revolving   |                     |                   |
| Loan Account                     | 13.00%              | 13.00%            |
| High-Unit Cost Wastewater        |                     |                   |
| Account                          | 10.00%              | 10.00%            |
| Water Supply Accounts            |                     |                   |
| General Water Supply             |                     |                   |
| Revolving Loan Account           | 23.00%              | 23.00%            |
| High-Unit Cost Water Supply      |                     |                   |
| Account                          | 3.00%               | 3.00%             |
| Emergency Water Supply Revolving |                     |                   |
| Loan Account                     | 5.00%               | 5.00%             |
| Administrative Account           | 1.00%               | 1.00%             |

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(c) All payments of interest and repayments of principal resulting from revolving loans shall be credited to the respective accounts from which the revolving loan funds were disbursed. Terms and conditions for repayment of revolving loans shall be

established by the Office of State Budget and Management, with the assistance of the Local Government Commission, consistent with the requirements of the Federal Water Pollution Control Act and this Chapter. Provided, the interest rate for all revolving loans authorized by this Chapter shall be fixed at the same percent per annum as the interest rate fixed under the Federal Water Pollution Control Act for loans from the Water Pollution Control Revolving Fund established by G.S. 159G-305(c), not to exceed the lesser of four percent (4%) or one half (1/2) the prevailing national market rate for tax exempt general obligation debt of similar maturities derived from a published indicator. Provided further, the interest rate may be fixed at a lower rate per annum if authorized by the Federal Water Pollution Control Act Regulations. It is the intent of the General Assembly to provide uniform interest payments for all loans made to units of local government irrespective of the account from which loans are made for either wastewater or water supply projects.

**"§ 159G-5. Clean Water Revolving Loan and Grant Fund.**—(a) There is established in the Office of State Budget and Management a fund to be known as the Clean Water Revolving Loan and Grant Fund, to be administered by the Office of State Budget and Management, which shall be responsible for receipt and disbursement of all moneys as appropriated and provided for in this Chapter.

(b) Funds in the various accounts in the Clean Water Revolving Loan and Grant Fund may be invested in the same manner as permitted for investments of funds belonging to the State or held in the State Treasury. Interest earnings derived from such investments shall be credited to the respective accounts from which funds were used to make such investments.

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

**"§ 159G-6. Distribution of funds.**—(a) Revolving loans and grants.

- (1) All funds appropriated or accruing to the Clean Water Revolving Loan and Grant Fund, other than funds set aside for administrative expenses, shall be used for revolving loans and grants to local government units for construction costs of wastewater treatment works, wastewater collection systems and water supply systems and other assistance as provided in this Chapter.
- (2) The maximum principal amount of a revolving loan or a grant may be one hundred percent (100%) of the nonfederal share of the construction costs of any eligible project. The maximum principal amount of revolving loans made to any one local government unit during any fiscal year shall be three million dollars (\$3,000,000). The

maximum principal amount of grants made to any one local government unit during any fiscal year shall be five hundred thousand dollars (\$500,000).

- (3) The State Treasurer shall be responsible for investing and distributing all funds appropriated or accruing to the Clean Water Revolving Loan and Grant Fund for revolving loans and grants under this Chapter. In fulfilling his responsibilities under this section, the State Treasurer shall make a written request to the Office of State Budget and Management to arrange for the appropriated funds to be (i) transferred from the appropriate accounts to a local government unit to provide funds for one or more revolving loans or grants or (ii) invested as authorized by this Chapter with the interest on and the principal of such investments to be transferred to the local government unit to provide funds for one or more revolving loans or grants.

(b) Wastewater Accounts. The sums allocated in G.S. 159G-304 and accruing to the various Wastewater Accounts in each fiscal year shall be used to make revolving loans and grants to local government units as provided below. The Office of the State Budget and Management shall disburse no funds from the Wastewater Accounts except upon receipt of written approval of the disbursement from the Environmental Management Commission.

- (1) General Wastewater Revolving Loan and Grant Account. The funds in the General Wastewater Revolving Loan and Grant Account shall be used exclusively for the purpose of providing for revolving construction loans or grants in connection with approved wastewater treatment work or wastewater collection system projects.
- (2) High-Unit Cost Wastewater Account. The funds in the High-Unit Cost Wastewater Account shall be available for grants to applicants for high-unit cost wastewater projects. Eligibility of an applicant for such a grant shall be determined by comparing estimated average household user fees for water and sewer service, for debt service and operation and maintenance costs, to one and one-half percent (1.5%) of the median household income in the county in which the project is located. The projects which would require estimated average household water and sewer user fees greater than one and one-half percent (1.5%) of the median household income are defined as high-unit cost wastewater projects and will be eligible for a grant equal to the excess cost, subject to the limitations in subsection (a)(2) of this section.
- (3) Emergency Wastewater Revolving Loan Account. The funds in the Emergency Wastewater Revolving Loan Account shall be available for revolving emergency loans to applicants in the event the Environmental Management Commission certifies that a serious public health hazard, related to the inadequacy of existing wastewater facilities, is present or imminent in a community.

(c) Water Supply Accounts. The sums allocated in G.S. 159G-304 and accruing to the various Water Supply Accounts in each fiscal year shall be used to provide revolving loans and grants to local government units as provided below. The Office of State Budget and Management shall disburse no funds from the Water Supply Accounts except upon receipt of written approval of the disbursement from the Division of Health Services.

- (1) General Water Supply Revolving Loan and Grant Account. The funds in the General Water Supply Revolving Loan and Grant Account shall be used exclusively for the purpose of providing for revolving construction loans and grants in connection with water supply systems generally and not upon a county allotment basis.
- (2) High-Unit Cost Water Supply Account. The funds in the High-Unit Cost Water Supply Account shall be available for grants to applicants for high-unit cost water supply systems, on the same basis as provided in G.S. 159G-306(b)(2) for high-unit cost wastewater projects.
- (3) Emergency Water Supply Revolving Loan Account. The funds in the Emergency Water Supply Revolving Loan Account shall be available for revolving emergency loans to applicants in the event the Division of Health Services certifies that a serious public health hazard, related to the water supply system, is present or imminent in a community.

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

Each agency entitled to receive administrative expense funds from the Administrative Account shall prepare an itemized estimate of administrative funds required for the succeeding fiscal year, and the Division of Health Services, the Local Government Commission and the Environmental Management Commission shall deliver their estimates to the Office of State Budget and Management at least 45 days prior to the beginning of the fiscal year for which the funds are required. The Office of State Budget and Management shall determine the administrative expense funds available and, along with its recommendations, shall deliver the estimates of the Division of Health Services, the Local Government Commission 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 shall be disbursed by the Office of State Budget and Management 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.

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

**§ 159G-7. (RESERVED)**

**"§ 159G-8. Application; environmental assessment; notice; hearing.–(a)**

Application. All applications for revolving loans and grants for water supply systems shall be filed with the Division of Health Services and all applications for revolving loans and grants for wastewater treatment works or wastewater collection systems shall be filed with the Environmental Management Commission. Every applicant shall also file with the Office of State Budget and Management such information concerning the application as the Office of State Budget and Management may require by rules or regulations adopted pursuant to this Chapter. Any application may be filed in as many categories as it is eligible for consideration under this Chapter. Applications for revolving loans or grants for wastewater treatment works and wastewater collection systems, except applications for emergency wastewater loans, shall first be submitted for a loan or grant from the Water Pollution Control Revolving Fund established by G.S. 159G-305(c). If the application is denied, the application shall then be considered for a revolving loan or a grant from the General Wastewater Revolving Loan and Grant account established under 159G-306(b)(1).

The Office of State Budget and Management, the Division of Health Services and the Environmental Management Commission may develop jointly and adopt a standard form of application under this Chapter. Any application for construction grants under the Federal Water Pollution Control Act may be considered as an application for revolving construction loans or grants under G.S. 159G-305(c) and G.S. 159G-306(b)(1). 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 Chapter.

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 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 pattern, and such other factors as the Commission for 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 grants under the Federal Water Pollution Control Act shall satisfy the requirement 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 shall receive no further consideration until a final environmental impact statement has been completed and approved as provided in Article 1 of Chapter 113A of the General Statutes.

(c) Hearing. A public hearing may be held by the receiving agency at any time on any application filed pursuant to G.S. 159G-305(c), 159G-306(b) or 159G-306(c) in accordance with the provisions of this subsection. A public hearing may be held by the receiving agency upon written request from any citizen or taxpayer who is a resident of the county or counties in which the project is proposed to be located if it appears that



the public interest will be served by this hearing. The written request shall set forth each objection to the proposed project or other reason for requesting a hearing on the application and shall contain the name and address of the person(s) submitting it. The receiving agency may 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.

**"§ 159G-9. Eligibility.**—No application shall be eligible for a revolving loan or grant under this Chapter unless it shall demonstrate to the satisfaction of the receiving agency that:

- (1) The applicant is a local government unit.
- (2) The applicant has the financial capacity to pay the principal of and the interest on its proposed obligations and loans.
- (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, and repayment of all principal of and interest on loans.

**"§ 159G-10. Priorities.**—(a) Determination. Determination of priorities to be assigned each eligible application shall be made semiannually by each receiving agency during each fiscal year. Every eligible application filed under G.S. 159G-305(c), 159G-306(b)(1) or 159G-306(c)(1) shall be considered by the receiving agency with every other application filed under G.S. 159G-305(c), 159G-306(b)(1) or 159G-306(c)(1), respectively, and eligible for consideration during the same priority period, to determine the priority to be assigned to each application. The same procedure shall apply to every eligible application filed under G.S. 159G-306(b)(3) and G.S. 159G-306(c)(3) of this Chapter. Any application which does not contain the information required by this Chapter or regulations adopted by the receiving agency(s) shall not be deemed received until such information is furnished by the applicant to the receiving agency.

(b) Priority Factors. All applications for revolving loans or grants under this Chapter eligible for consideration during each priority period shall be assigned a priority for such funds by the receiving agency. The priority factors shall be similar to those developed under the North Carolina Clean Water Bond Act of 1977, as provided in this subsection.

- (1) General Criteria. The general criteria provided in 1 NCAC 22.0401 through .0403 on January 1, 1987, shall apply, except that 1 NCAC 22.0401(c) shall apply only to State funds appropriated to match available federal funds.

- (2) Wastewater Treatment Work Projects. The priority criteria provided in 1 NCAC 22.0501 through .0506 on January 1, 1987, shall apply to applications for wastewater treatment work projects, except that 1 NCAC 22.0503 shall not apply.
- (3) Wastewater Collection System Projects. The priority criteria provided in 1 NCAC 22.0601 through .0606 on January 1, 1987, shall apply to applications for wastewater collection system projects, except that 1 NCAC 22.0601(2)(a) and (3), and 1 NCAC 22.0605(2), (3) and (4) shall not apply.
- (4) Water Supply System Projects. The priority criteria provided in 1 NCAC 22.0701 through .0704 on January 1, 1987, shall apply to applications for water supply system projects.
- (5) The total number of points available in the respective categories shall be deemed adjusted in accordance with the provisions of subdivisions (1) through (4) of this subsection.

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

(d) Failure to Qualify. Any application filed under G.S. 159G-305(c), G.S. 159G-306(b) or G.S. 159G-306(c) that does not qualify for a revolving loan or 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 revolving loan or grant during the next succeeding priority period upon request of the applicant. If such application should again fail to qualify for a revolving loan or 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 at any time, and may amend any pending application to include additional data or information.

**"§ 159G-11. Withdrawal of commitment.**—Failure of an applicant, within one year of the date of acceptance of a revolving loan or grant award, to (i) arrange for necessary financing of the proposed project, or (ii) award a contract for the construction of the proposed project, shall constitute sufficient cause for withdrawal of the commitment. Prior to withdrawal of a commitment, the 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 commitment may be extended for an additional period of time if, in the judgment of the receiving agency, such an extension is justified.

**"§ 159G-12. Disbursement.**—(a) No funds shall be disbursed by the Office of State Budget and Management for any revolving loan or grant until it has received from the receiving agency a certificate of eligibility to the effect that the applicant meets all eligibility criteria, and that all procedural requirements of this Chapter have been met.

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

(c) The receiving agency, in its sole discretion, may determine whether the payment of any revolving loan or grant made under this Chapter 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 revolving loans or grants. The State Treasurer, with the approval of the receiving agency and consistent with the provisions of G.S. 159G-306(a)(3), shall, by adoption of appropriate rules, provide for the payment of revolving loans or grants.

**"§ 159G-13. Revolving loans and grants.**—(a) To be eligible to receive the revolving loans and grants provided for in this Chapter, local government units shall arrange to borrow the amounts necessary to be borrowed in connection therewith pursuant to the Local Government Finance Act or as provided in this Chapter as applicable. Local government units may apply for the revolving loans and grants prior to arranging for such borrowing.

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

**"§ 159G-14. Inspection.**—Inspection of a project for which a revolving loan or grant has been made under this Chapter 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 revolving loan or 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 revolving loan or 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 Chapter.

**"§ 159G-15. Rules.**—(a) The Office of State Budget and Management, the Commission for Health Services and the Environmental Management Commission may adopt, modify and repeal rules establishing the procedures to be followed in the administration of this Chapter and regulations interpreting and applying the provisions of this Chapter, as provided in the Administrative Procedure Act. Uniform rules may be jointly adopted where feasible and desirable, and no rule jointly adopted may be modified or revoked except upon concurrence of all agencies involved.

(b) A copy of its rules adopted to implement the provisions of this Chapter shall be furnished free of charge by the receiving agency and the Office of State Budget and Management to any local government unit.

**"§ 159G-16. Federal grants and loans.**—In order to carry out the purpose of this Chapter to secure the greatest benefits possible to the citizens of this State from the funds herein appropriated, the Office of State Budget and Management, the Commission for Health Services and the Environmental Management Commission shall adopt such rules and criteria, not inconsistent with the provisions of this Chapter, as are

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

**"§ 159G-17. Annual reports to Joint Legislative Commission on Governmental Operations.**—(a) The Office of State Budget and Management, the Division of Health Services and the Environmental Management Commission shall prepare and file on or before July 31 of each year with the Joint Legislative Commission on Governmental Operations a consolidated report for the preceding fiscal year concerning the allocation of revolving loans and grants authorized by this Chapter.

(b) Office of State Budget and Management. The portion of the report prepared by the Office of State Budget and Management shall set forth for the preceding fiscal year itemized and total allocations from the Administrative Account for administrative expenses; itemized and total allocations from the Wastewater Accounts of revolving loans and grants authorized by the Environmental Management Commission; and itemized and total allocations from the Water Supply Accounts of revolving loans and grants authorized by the Division of Health Services. The Office of State Budget and Management shall also prepare a summary report of all allocations made from the Clean Water Revolving Loan and Grant 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.

(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 shall include:

- (1) Identification of each revolving loan and grant made by the receiving agency during the preceding fiscal year; the total amount of the revolving loan and grant commitments; the sums actually paid during the preceding fiscal year to each revolving loan and grant made and to each revolving loan and grant previously committed but unpaid; and the total revolving loan and grant funds paid during the preceding fiscal year.
- (2) Itemization of expenditures of any administrative expense funds allocated from the Administrative Account during the preceding fiscal year.
- (3) Summarization for all preceding years of the total number of revolving loans and grants made; the total funds committed to such revolving loans and grants; the total sum actually paid to such revolving loans and grants and the total expenditure of administrative expense funds allocated from the Administrative Account.
- (4) Assessment and evaluation of the effects that approved projects have had upon water pollution control and water supplies within the purposes of this Chapter and with relation to the total water pollution control and water supply problem.

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

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

(b) The Local Government Commission shall review and approve proposed loans to applicants under this Chapter under the provisions of Articles 4 and 5, Chapter 159 of the General Statutes, as if the issuance of bonds was proposed, so far as those provisions are applicable. Revolving loans under this Chapter shall be outstanding debt for the purpose of Article 10, Chapter 159 of the General Statutes."

Sec. 2. Article 4 of Chapter 159 of the General Statutes is hereby amended as follows:

(1) G.S. 159-45 is hereby amended by deleting the period at the end thereof and adding thereto the following:

"or by the issuance of debt instruments in accordance with the limitations and procedures prescribed in Chapter 159G of the General Statutes."

(2) G.S. 159-46 is hereby amended by inserting after the word "Article" the following:

"and debt instruments secured by a pledge of its faith and credit in accordance with the limitations and procedures prescribed in Chapter 159G of the General Statutes."

Sec. 3. Article 3 of Chapter 159 of the General Statutes is hereby amended as follows:

(1) G.S. 159-7(b)(4) is hereby amended to read:

"(4) 'Debt service' is the sum of money required to pay installments of principal and interest on bonds, notes, and other evidences of debt accruing within a fiscal year, to maintain sinking funds, and to pay installments on debt instruments issued pursuant to Chapter 159G of the General Statutes accruing within a fiscal year."

(2) G.S. 159-13(a) is amended by adding a new paragraph as follows:

"(19) No appropriation of the proceeds of a debt instrument may be made from the capital project fund account established to account for such proceeds except for the purpose for which such debt instrument was issued. The total of other appropriations made to another fund from such a capital project fund account may not exceed the amount of revenues other than debt instrument proceeds available to the account."

(3) G.S. 159-13.2(a)(1) is amended to read:

"(1) In this section 'capital project' means a project financed in whole or in part by the proceeds of bonds or notes or debt instruments or a project involving the construction or acquisition of a capital asset."

(4) The last sentence of G.S. 159-13.2(b) is amended to read:

"Neither a bond order nor an order authorizing any debt instrument constitutes a project ordinance."

(5) G.S. 159-25(a)(5) is amended to read:

"(5) He shall maintain all records concerning the bonded debt and other obligations of the local government or public authority, determine the amount of money that will be required for debt service or the payment of other obligations during each fiscal year, and maintain all sinking funds."

(6) G.S. 159-26(b)(6) is amended to read:

"(6) Capital Project Funds. Such a fund shall be established to account for the proceeds of each bond order or order authorizing any debt instrument and for all other resources used for the capital projects financed by the bond or debt instrument proceeds. A unit or public authority may account for two or more bond orders or orders authorizing any debt instrument in one capital projects fund, but the proceeds of each such order and the other revenues associated with that order shall be separately accounted for in the fund."

(7) G.S. 159-35 is amended by adding a new subsection as follows:

"(c) The secretary shall mail to each unit of local government not later than 30 days prior to the due date of each payment due to the State under debt instruments issued pursuant to Chapter 159G of the General Statutes a statement of the amount so payable, the due date, the amount of any moneys due to the unit of local government that will be withheld by the State and applied to the payment, the amount due to be paid by the unit of local government from local sources, the place to which payment should be sent, and a summary of the legal penalties for failing to honor the debt instrument according to its terms. Failure of the secretary timely to mail such statement or otherwise comply with the provisions of this subsection (c) shall not affect in any manner the obligation of a unit of local government to make payments to the State in accordance with any such debt instrument."

(8) G.S. 159-36 is hereby amended by redesignating the present provisions thereof as subsection (a) and adding a new subsection (b) as follows:

"(b) This section does not apply to contractual obligations undertaken by a unit of local government in a debt instrument issued pursuant to Chapter 159G of the General Statutes unless such debt instrument is secured by a pledge of the faith and credit of the unit of local government."

Sec. 4. G.S. 159-123(d) is amended by adding at the end a new sentence to read:

"This section also shall not apply to debt instruments that the State has previously agreed to purchase pursuant to Chapter 159G of the General Statutes."

Sec. 5. G.S. 159-181 is hereby amended by adding at the end of subsection (c) a new sentence to read as follows:

"This subsection (c) does not apply to contractual obligations undertaken by a unit of local government in a debt instrument issued pursuant to Chapter 159G of the General Statutes unless such debt instrument is secured by a pledge of the faith and credit of the unit of local government."

Sec. 6. This act shall be construed liberally to effectuate the legislative intent and the purposes as complete and independent authority for the performance of each and every act and thing authorized by this act, and all powers granted shall be broadly interpreted to effectuate the intent and purposes and not as a limitation of powers.

Sec. 7. If a section, subsection, subdivision, clause or provision of this act is adjudged unconstitutional or is ineffective, the remainder of this act shall be valid and effective. Any other section, subsection, subdivision, clause, or provision of this act shall not on account of that judgment be considered invalid or ineffective and the inapplicability or invalidity of a section, subsection, subdivision, clause, or provision of this act in one or more instances or under one or more circumstances shall not be taken to affect or prejudice in any way its applicability or validity in any other instance or under any other circumstance."

Sec. 8. This act is effective upon ratification.

In the General Assembly read three times and ratified this the 12th day of August, 1987.