

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

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HOUSE BILL 1771
PROPOSED COMMITTEE SUBSTITUTE H1771-PCS50925-SB-89

Short Title: Encourage Water Conservation Improvements.

(Public)

Sponsors:

Referred to:

May 19, 2010

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE LOCAL GOVERNMENTS TO MAKE SPECIAL ASSESSMENTS, LEVY SURCHARGES TO WATER RATES, AND LEVY PROPERTY TAXES TO FUND THE INSTALLATION OF WATER CONSERVATION SYSTEMS AND TO ESTABLISH A TAX CREDIT FOR THE PURCHASE, CONSTRUCTION, AND INSTALLATION OF CERTAIN WATER CONSERVATION SYSTEMS.

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

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

The General Assembly of North Carolina enacts:

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

"§ 160A-239.2. Assessments.

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

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

(c) Method. – The city council must establish an assessment method that will most accurately assess each lot or parcel of land according to the benefits conferred upon it by the project for which the assessment is made. In addition to the bases upon which assessments may



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1 be made under G.S. 160A-218, the council may select any other method designed to allocate
2 the costs in accordance with benefits conferred."

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

4 **"§ 160A-239.4. Financing a project for which an assessment is imposed.**

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

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

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

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

15 (4) General revenues.

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

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

22 **"§ 153A-210.2. Assessments.**

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

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

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

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

42 **"§ 160A-320.1. Revolving loan program for water efficiency improvements.**

43 (a) Purpose. – The General Assembly finds it is in the best interest of the citizens of
44 North Carolina to promote and encourage water efficiency within the State in order to conserve
45 water resources, promote economic competitiveness, and expand employment in the State, and
46 in the best interests of cities operating water and sewer systems to reduce the need for costly
47 expanded or new capacity for water and sewer treatment by encouraging water efficiency. In
48 furtherance of this purpose, a city may establish a program to finance the purchase and
49 installation of water conservation systems that are permanently affixed to residential,
50 commercial, or other real property. For purposes of this section, water conservation system
51 shall have the same meaning as in G.S. 105-129.15.

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

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

12 **"§ 153A-289. Revolving loan program for water efficiency improvements.**

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

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

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

33 **"§ 162A-6.2. Revolving loan program for water efficiency improvements.**

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

41 **(b) Revolving Loan Fund.** – A water and sewer authority may establish a revolving loan
42 fund for the purpose of providing loans to finance the purchase and installation of water
43 conservation systems that are permanently fixed to residential, commercial, or other real
44 property. The water and sewer authority may use a surcharge of no more than one dollar
45 (\$1.00) on its base rate to fund the revolving loan fund. The annual interest rate charged for the
46 use of funds from the revolving fund may not exceed eight percent (8%) per annum, excluding
47 other fees for loan application review and origination. The term of any loan originated under
48 this section may not be greater than 15 years."

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

50 **"§ 160A-314. Authority to fix and enforce rates.**

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

6 ...

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

10"

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

12 **"§ 153A-277. Authority to fix and enforce rates.**

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

20 ...

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

24"

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

26 **"§ 160A-209. Property taxes.**

27 ...

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

30 ...

31 (12a) Energy and Water Efficiency. – To provide programs to finance the purchase
32 and installation of distributed generation renewable energy sources, water
33 conservation systems, or energy efficiency improvements that are
34 permanently affixed to residential, commercial, or other real property under
35 G.S. 160A-239.2 or G.S. 160A-320.1.

36"

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

38 **"§ 153A-149. Property taxes; authorized purposes; rate limitation.**

39 ...

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

44 ...

45 (10c) Energy and Water Efficiency. – To provide programs to finance the purchase
46 and installation of distributed generation renewable energy sources, water
47 conservation systems, or energy efficiency improvements that are
48 permanently affixed to residential, commercial, or other real property under
49 G.S. 153A-210.2 or G.S. 153A-289.

50"

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

1 **"§ 105-129.15. Definitions.**

2 The following definitions apply in this Article:

3 ...

4 (4b) Local government infrastructure financing option. – A special assessment
5 under Article 10A of Chapter 160A or Article 9A of Chapter 153A of the
6 General Statutes, or a revolving loan program under G.S. 153A-455,
7 153A-289, 160A-320.1, 160A-459.1, or 162A-6.2.

8 ...

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

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

16 **"§ 105-129.16I. Credit for water conservation systems.**

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

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

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

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

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

44 (d) No Double Credit. – A taxpayer that claims any other credit allowed under this
45 Chapter with respect to a water conservation system may not take the credit allowed in this
46 section with respect to the same property. A taxpayer may not take the credit allowed in this
47 section for a water conservation system installed on property the taxpayer leases from another
48 unless the taxpayer obtains the lessor's written certification that the lessor will not claim a
49 credit under this Chapter with respect to the property.

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

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