

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015

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HOUSE BILL 538
Committee Substitute Favorable 4/16/15
Senate State and Local Government Committee Substitute Adopted 7/21/15
PROPOSED SENATE COMMITTEE SUBSTITUTE H538-PCS20384-STxr-80

Short Title: Water and Sewer Service Related Changes. (Public)

Sponsors:

Referred to:

April 6, 2015

1 A BILL TO BE ENTITLED
2 AN ACT TO AMEND AND CLARIFY THE POWERS OF WATER AND SEWER
3 AUTHORITIES, TO AUTHORIZE COUNTIES AND CITIES TO PLEDGE A
4 SECURITY INTEREST IN AN ESCROW ACCOUNT UNDER CERTAIN
5 CONDITIONS, TO ALLOW THE LOCAL GOVERNMENT COMMISSION TO
6 AUTHORIZE A THIRTY-YEAR MATURITY DATE FOR THE FINANCING OF
7 CERTAIN WATER SYSTEM PROJECTS, AND TO AUTHORIZE METROPOLITAN
8 WATER DISTRICTS AND METROPOLITAN WATER AND SEWERAGE DISTRICTS
9 TO ENTER INTO INSTALLMENT CONTRACT FINANCING AGREEMENTS.

10 The General Assembly of North Carolina enacts:

11 **SECTION 1.** G.S. 162A-6(a)(14c) reads as rewritten:

12 "(14c) To adopt ordinances concerning any of the following:

- 13 a. ~~to regulate~~ The regulation and control of the discharge of sewage or
14 stormwater into any sewerage system owned or operated by the
15 authority, to adopt ordinances concerning stormwater authority.
16 b. The regulation and control of a water system owned or operated by
17 the authority.
18 c. Stormwater management programs designed to protect water quality
19 by controlling the level of pollutants in and the quantity and flow of
20 stormwater, and to adopt ordinances to regulate stormwater.
21 d. The regulation and control of structural and natural stormwater and
22 drainage systems of all types.

23 Prior to the adoption of any such ordinance or any amendment to any such
24 ordinance, the authority shall first pass a declaration of intent to adopt such
25 ordinance or amendment. The declaration of intent shall describe the
26 ordinance which it is proposed that the authority adopt. The declaration of
27 intent shall be submitted to each governing body for review and comment.
28 The authority shall consider any comment or suggestions offered by any
29 governing body with respect to the proposed ordinance or amendment.
30 Thereafter, the authority shall be authorized to adopt such ordinance or
31 amendment to it at any time after 60 days following the submission of the
32 declaration of intent to each governing body."

33 **SECTION 2.** G.S. 162A-6(a) is amended by adding two new subdivisions to read:



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- 1 "(17) To enter into reimbursement agreements to be paid by the authority to a
2 private developer or property owner for the design and construction of
3 infrastructure that is included on the authority's capital improvement plan
4 and serves the developer or property owner. An authority shall enact
5 ordinances setting forth procedures and terms under which such agreements
6 may be approved. An authority may provide for such reimbursements to be
7 paid from any lawful source. Reimbursement agreements authorized by this
8 subdivision shall not be subject to Article 8 of Chapter 143 of the General
9 Statutes, except as provided by this subsection. A developer or property
10 owner who is party to a reimbursement agreement authorized under this
11 subdivision shall solicit bids in accordance with Article 8 of Chapter 143 of
12 the General Statutes when awarding contracts for work that would have
13 required competitive bidding if the contract had been awarded by the
14 authority. For the purpose of this subdivision, infrastructure includes,
15 without limitation, water mains, sanitary sewer lines, lift stations, water
16 pump stations, stormwater lines, and other associated facilities.
- 17 (18) To offer and pay rewards in an amount not exceeding five thousand dollars
18 (\$5,000) for information leading to the arrest and conviction of any person
19 who willfully defaces, damages or destroys, or commits acts of vandalism or
20 larceny of any authority property. The amount necessary to pay said rewards
21 shall be an item in the current expense budget of the authority."

22 **SECTION 3.** Article 3 of Chapter 160A of the General Statutes is amended by
23 adding a new section to read:

24 "**§ 160A-17.2. Security interests in United States Department of Agriculture loans.**

25 (a) A county or municipality may pledge a security interest in an escrow account
26 funded with loan proceeds, or a certificate of deposit, to secure repayment of the loan, only if
27 the loan is an interest-free loan agreement entered into with the United States Department of
28 Agriculture or an authorized intermediary acting on behalf of the United States Department of
29 Agriculture. Any such escrow account must be substantiated by a written escrow agreement,
30 and the funds must be deposited in accordance with G.S. 159-30 and G.S. 159-31. Any
31 certificate of deposit shall comply with the requirements of G.S. 159-30.

32 (b) An interest-free loan agreement entered into under this section is subject to approval
33 by the Local Government Commission under Article 8 of Chapter 159 of the General Statutes,
34 unless exempted in G.S. 159-148(b).

35 (c) No deficiency judgment may be rendered against any county or municipality in any
36 action for breach of a contractual obligation authorized by this section. The taxing power of a
37 county or municipality is not and may not be pledged directly or indirectly to secure any
38 moneys due under a contract authorized by this section."

39 **SECTION 4.(a)** G.S. 159G-40(b) reads as rewritten:

40 "(b) Interest Rate and Maturity. – The interest rate payable on and the maximum
41 maturity of a loan are subject to the following limitations:

- 42 (1) Interest rate. – The interest rate for a loan may not exceed the lesser of four
43 percent (4%) or one half the prevailing national market rate for tax-exempt
44 general obligation debt of similar maturities derived from a published
45 indicator. When recommended by the Department, the Local Government
46 Commission may set an interest rate for a loan for a targeted interest rate
47 project at a rate that is lower than the standard rate to achieve the purpose of
48 the target.
- 49 (2) Maturity. – ~~The~~ Except as provided in this subsection, the maximum
50 maturity for a loan for a project that is not a high-unit-cost-targeted interest
51 rate project may not exceed 20 years or the project's expected life, whichever

1 is shorter. ~~The maximum maturity for a loan for a high-unit-cost project is~~
2 ~~30 years or the project's expected life, whichever is shorter.~~ Upon approval of
3 the Local Government Commission, the maximum maturity for a loan that is
4 not a targeted interest rate project may extend to 30 years. Such approval is
5 explicitly limited to local government units that meet all of the following
6 criteria:

- 7 a. The project serves a system that is ranked as Tier I on the 2007-08
8 Tier Drought Vulnerability List developed by the Department.
9 b. The loan amount is at least as great as eight times the amount of the
10 operating revenue of the unit's system for which the loan is being
11 granted."

12 **SECTION 4.(b)** This section is effective when it becomes law and expires July 1,
13 2016. The sunset does not affect the validity of any loan agreement approved by the Local
14 Government Commission prior to the sunset or loan increases approved after the sunset,
15 provided the loan was approved in accordance with G.S. 159G-40, as amended by this section,
16 prior to the sunset.

17 **SECTION 5.(a)** G.S. 160A-20(h) is amended by adding two new subdivisions to
18 read:

19 "(h) Local Government Defined. – As used in this section, the term "unit of local
20 government" means any of the following:

21 ...

22 (3d) A metropolitan water district created under Article 4 of Chapter 162A of the
23 General Statutes.

24 (3e) A metropolitan water and sewerage district created under Article 5A of
25 Chapter 162A of the General Statutes.

26"

27 **SECTION 5.(b)** G.S. 162A-36(a) is amended by adding a new subdivision to read:

28 "(a) Each district shall be deemed to be a public body and body politic and corporate,
29 exercising public and essential governmental functions, to provide for the preservation and
30 promotion of the public health and welfare, and said district is hereby authorized and
31 empowered:

32 ...

33 (7a) To pledge a security interest in accordance with G.S. 160A-20.

34"

35 **SECTION 5.(c)** G.S. 162A-69 is amended by adding a new subdivision to read:

36 "**§ 162A-69. Powers generally; fiscal year.**

37 Each district shall be deemed to be a public body and body politic and corporate exercising
38 public and essential governmental functions to provide for the preservation and promotion of
39 the public health and welfare, and each district is hereby authorized and empowered:

40 ...

41 (11a) To pledge a security interest in accordance with G.S. 160A-20.

42"

43 **SECTION 6.** This act is effective when it becomes law.