

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2007

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HOUSE BILL 990*

Short Title: Land and Water Conservation Bond Act of 2007. (Public)

Sponsors: Representatives Allen, Wainwright, Harrison, Haire (Primary Sponsors); Alexander, Barnhart, Bell, Blue, Bordsen, Brown, Brubaker, Carney, Church, Cleveland, Coates, Coleman, Current, Dickson, Dockham, Dollar, England, Faison, Farmer-Butterfield, Fisher, Gibson, Glazier, Goforth, Goodwin, Gulley, Hall, T. Harrell, Hill, Holliman, Insko, Jeffus, Justice, Langdon, Lucas, Luebke, McComas, McGee, McLawhorn, Moore, Owens, Parmon, Pate, Pierce, Rapp, Ross, Saunders, Setzer, Spear, Steen, Stiller, Tarleton, Thomas, Tolson, Underhill, E. Warren, Weiss, Wilkins, Williams, Womble, Wray, and Wright.

Referred to: Finance.

March 26, 2007

A BILL TO BE ENTITLED

1 AN ACT TO AUTHORIZE THE ISSUANCE OF GENERAL OBLIGATION BONDS
2 OF THE STATE, SUBJECT TO A VOTE OF THE QUALIFIED VOTERS OF
3 THE STATE, TO ADDRESS STATEWIDE NEEDS REGARDING LAND
4 CONSERVATION, WATER QUALITY PROTECTION, HISTORIC
5 PRESERVATION, AND JOB CREATION.

6 The General Assembly of North Carolina enacts:

7 **SECTION 1.** This act is entitled "The Land and Water Conservation Bond
8 Act of 2007."

9 **SECTION 2.** Authorization of bonds and notes. – Subject to a favorable
10 vote of a majority of the qualified voters of the State who vote on the question of
11 issuing Land and Water Conservation Bonds in the election called and held as provided
12 in this act, the State Treasurer is hereby authorized, by and with the consent of the
13 Council of State, to issue and sell, at one time or from time to time, general obligation
14 bonds of the State to be designated "State of North Carolina Land and Water
15 Conservation Bonds", with any additional designations as may be determined to
16 indicate the issuance of bonds from time to time, or notes of the State as provided in this
17 act, in an aggregate principal amount not exceeding one billion dollars (\$1,000,000,000)
18 for the purpose of providing funds, with any other available funds, for the purposes
19 authorized in this act. No more than an aggregate amount of two hundred million
20 dollars (\$200,000,000) of bonds may be issued under this act before July 1, 2008. No
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1 more than an aggregate amount of four hundred million dollars (\$400,000,000) of bonds
2 may be issued under this act before July 1, 2009. No more than an aggregate amount of
3 six hundred million dollars (\$600,000,000) of bonds may be issued under this act before
4 July 1, 2010. No more than an aggregate amount of eight hundred million dollars
5 (\$800,000,000) of bonds may be issued under this act before July 1, 2011.

6 **SECTION 3.** Definitions. – As used in this act, unless the context otherwise
7 requires:

8 (1) "Bonds" means bonds issued under this act.

9 (2) "Credit facility" means an agreement entered into by the State
10 Treasurer on behalf of the State with a bank, savings and loan
11 association, or other banking institution, an insurance company,
12 reinsurance company, surety company, or other insurance institution, a
13 corporation, investment banking firm, or other investment institution,
14 or any financial institution or other similar provider of a credit facility,
15 which provider may be located within or without the United States of
16 America, such agreement providing for prompt payment of all or any
17 part of the principal or purchase price (whether at maturity,
18 presentment or tender for purchase, redemption, or acceleration),
19 redemption premium, if any, and interest on any bonds or notes
20 payable on demand or tender by the owner, in consideration of the
21 State agreeing to repay the provider of the credit facility in accordance
22 with the terms and provisions of such agreement.

23 (3) "Notes" means notes issued under this act.

24 (4) "Par formula" means any provision or formula adopted by the State to
25 provide for the adjustment, from time to time, of the interest rate or
26 rates borne by any bonds or notes, including:

27 a. A provision providing for such adjustment so that the purchase
28 price of such bonds or notes in the open market would be as
29 close to par as possible,

30 b. A provision providing for such adjustment based upon a
31 percentage or percentages of a prime rate or base rate, which
32 percentage or percentages may vary or be applied for different
33 periods of time, or

34 c. Such other provision as the State Treasurer may determine to be
35 consistent with this act and will not materially and adversely
36 affect the financial position of the State and the marketing of
37 bonds or notes at a reasonable interest cost to the State.

38 (5) "State" means the State of North Carolina.

39 **SECTION 4.** Use of bond proceeds. – The proceeds of the Land and Water
40 Conservation Bonds shall be used as provided in this section. The proceeds of Land and
41 Water Conservation Bonds shall be used as follows:

42 (1) Twenty-nine and forty-one one-hundredths percent (29.41%) of the
43 proceeds of each issuance of Land and Water Conservation Bonds

1 shall be used in the same manner as funds appropriated to the Natural
2 Heritage Trust Fund created pursuant to G.S. 113-77.7.

3 (2) Eighteen and fifty-nine one-hundredths percent (18.59%) of the
4 proceeds of each issuance of Land and Water Conservation Bonds
5 shall be used in the same manner as funds appropriated to the Clean
6 Water Management Trust Fund created pursuant to G.S. 113A-253.

7 (3) Sixteen and forty-seven one-hundredths percent (16.47%) of the
8 proceeds of each issuance of Land and Water Conservation Bonds
9 shall be used in the same manner as funds appropriated to the Parks
10 and Recreation Trust Fund created pursuant to G.S. 113-44.15.

11 (4) Twenty percent (20%) of the proceeds of each issuance of Land and
12 Water Conservation Bonds shall be used in the same manner as funds
13 appropriated to the North Carolina Agricultural Development and
14 Farmland Preservation Trust Fund created pursuant to G.S. 106-744.

15 (5) Fourteen and twelve one-hundredths percent (14.12%) of the proceeds
16 of each issuance of Land and Water Conservation Bonds shall be used
17 to fund the Landing Jobs Initiative created pursuant to
18 G.S. 143B-437.102.

19 (6) One and forty-one one-hundredths percent (1.41%) of the proceeds of
20 each issuance of Land and Water Conservation Bonds shall be used to
21 fund the One NC Naturally program administered by the Department
22 of Environment and Natural Resources, Office of Conservation and
23 Community Affairs.

24 **SECTION 5.** Natural Heritage Trust Fund. – (a) G.S. 113-77.8(a) reads as
25 rewritten:

26 "(a) Expenditures from the Fund shall be authorized by a 12-member Board of
27 Trustees. Four members shall be appointed by the Governor, four by the General
28 Assembly upon the recommendation of the President Pro Tempore of the Senate in
29 accordance with G.S. 120-121, and four by the General Assembly upon the
30 recommendation of the Speaker of the House of Representatives in accordance with
31 G.S. 120-121. Persons appointed shall be knowledgeable in the acquisition and
32 management of natural ~~areas~~areas or historic properties. Each appointing officer shall
33 designate one of his initial appointments to serve a two-year term, one to serve a
34 four-year term, and one to serve a six-year term. Thereafter, all appointments shall be
35 for six years, subject to reappointment. Appointments shall expire January 1 of
36 even-numbered years. The Governor shall appoint one Trustee to serve as Chairman of
37 the Board. The Secretary shall provide the Trustees with staff support and meeting
38 facilities using expenditures from the Fund. The office of Trustee is declared to be an
39 office that may be held concurrently with any other executive or appointive office,
40 under the authority of Article VI, Section 9, of the North Carolina Constitution."

41 **SECTION 5.(b)** G.S. 113-77.9 reads as rewritten:

42 "**§ 113-77.9. ~~Acquisition of lands~~Permissible grants with funds from the Natural**
43 **Heritage Trust Fund.**

1 (a) Proposals. – From time to time, but at least once each year, the Secretary, the
2 Chairman of the North Carolina Wildlife Resources Commission, the Commissioner of
3 Agriculture, and the Secretary of Cultural Resources may propose to the Trustees lands
4 to be acquired with funds from the Fund. For each tract or interest proposed, the
5 Secretary, the Chairman of the North Carolina Wildlife Resources Commission, the
6 Commissioner of Agriculture, and the Secretary of Cultural Resources shall provide the
7 Trustees with the following information:

8 (1) The value of the land and historic structures for recreation, forestry,
9 fish and wildlife habitat, and wilderness purposes, and its consistency
10 with ~~the plan~~plans developed pursuant to the State Parks Act, the
11 State's comprehensive plan for outdoor recreation, parks, natural areas
12 development, and wildlife management goals and
13 ~~objectives~~objectives, or with the historic preservation priorities and
14 objectives developed by the Department of Cultural Resources.

15 (2) Any rare or endangered species on or near the land.

16 (3) Whether the land contains a relatively undisturbed and outstanding
17 example of a native North Carolina ecological community that is now
18 uncommon.

19 (4) Whether the land contains a major river or tributary, watershed,
20 wetland, significant littoral, estuarine, or aquatic site, or important
21 geologic feature.

22 (5) The extent to which the land represents a type of landscape, natural
23 feature, or natural area that is not currently in the State's inventory of
24 parks and natural areas.

25 (5a) Whether the land is visible from a State or nationally designated scenic
26 highway.

27 (5b) The historical and cultural significance of any structures or
28 archeological sites on the land.

29 (6) Other sources of funds that may be available to assist in acquiring the
30 land.

31 (7) The State department or division that will be responsible for managing
32 the ~~land~~land or holding the easement.

33 (8) What assurances exist that the land or historic structure will not be
34 used for purposes other than those for which it is being
35 ~~acquired~~acquired or improved.

36 (9) ~~Whether the site or structure is of such historical significance as to be~~
37 ~~essential to the development of a balanced State program of historic~~
38 ~~properties.~~

39 (b) Land Acquisition and Debt Service. – The Trustees may authorize
40 expenditures from the Fund for the following purposes:

41 (1) To acquire land that represents the ecological diversity of North
42 Carolina, including natural features such as riverine, montane, coastal,
43 and geologic systems and other natural areas to ensure their
44 preservation and conservation for recreational, scientific, educational,

1 cultural, and aesthetic purposes, and to retire debt incurred for this
2 purpose under Article 9 of Chapter 142 of the General Statutes.

3 (2) To acquire land as additions to the system of parks, State trails,
4 aesthetic forests, fish and wildlife management areas, wild and scenic
5 rivers, and natural areas for the beneficial use and enjoyment of the
6 public, and to retire debt incurred for this purpose under Article 9 of
7 Chapter 142 of the General Statutes.

8 (3) Subject to the limitations of subsection (b2) of this section, to acquire
9 land ~~that contributes~~ and structures that contribute to the development
10 of a balanced State program of historic properties.

11 (b1) Priorities. – In authorizing expenditures from the Fund to acquire land and
12 structures pursuant to this Article, the first priority shall be the protection of land and
13 structures with outstanding natural or cultural heritage values. Land with outstanding
14 natural heritage values is land that is identified by the North Carolina Natural Heritage
15 Program as having State or national significance. ~~Land~~ Land, structures, and sites with
16 outstanding cultural heritage values ~~is land that are~~ those that are listed on the National
17 Register of Historic Places or have been formally determined to be eligible for listing on
18 the National Register of Historic Places, and have been ~~is~~ identified, inventoried, ~~or~~ and
19 evaluated by the Department of Cultural Resources. The Trustees shall be guided by any
20 priorities established by the Secretary, the Chairman of the Wildlife Resources
21 Commission, the Commissioner of Agriculture, and the Secretary of Cultural Resources
22 in their proposals made pursuant to subsection (a) of this section.

23 (b2) Historic Properties. – The Trustees may authorize expenditure of up to
24 twenty-five percent (25%) of the funds credited to the Fund ~~pursuant to G.S. 105-228.30~~
25 during the preceding fiscal year to acquire land and structures under subdivision (3) of
26 subsection (b) of this ~~section~~ section or to restore, rehabilitate, or repair historic
27 structures under subdivision (3) of subsection (c) of this section. No other funds in the
28 Fund may be used for expenditures ~~to acquire land~~ under subdivision (3) of subsection
29 (b) or subdivision (3) of subsection (c) of this section.

30 (b3) Debt. – Of the funds credited annually to the Fund pursuant to
31 G.S. 105-228.30, the Trustees may authorize expenditure of up to fifty percent (50%) to
32 reimburse the General Fund for debt service on special indebtedness to be issued or
33 incurred under Article 9 of Chapter 142 of the General Statutes for the purposes
34 provided in subdivisions (b)(1) and (2) of this section. In order to authorize expenditure
35 of funds for debt service reimbursement, the Trustees must identify to the State
36 Treasurer and the Department of Administration the specific natural heritage projects
37 for which they would like special indebtedness to be issued or incurred and the annual
38 amount they intend to make available, and request the State Treasurer to issue or incur
39 the indebtedness. After special indebtedness has been issued or incurred for a natural
40 heritage project requested by the Trustees, the Trustees must direct the State Treasurer
41 to credit to the General Fund each year the actual aggregate principal and interest
42 payments to be made in that year on the special indebtedness, as identified by the State
43 Treasurer.

1 (c) Other Purposes. – The Trustees may also authorize expenditures from the
2 Fund ~~to~~ for the following purposes:

3 (1) To pay for the inventory of natural areas conducted under the Natural
4 Heritage Program established pursuant to the Nature Preserves Act,
5 Article 9A of Chapter 113A of the General Statutes.

6 (2) ~~The Trustees may also authorize expenditures from the Fund to~~ To pay
7 for conservation and protection planning and for informational
8 programs for owners of natural areas, as defined in G.S. 113A-164.3.

9 (3) To restore, rehabilitate, and repair historic structures routinely open to
10 the public in which the State shall hold or acquire a property interest
11 either in fee, easement, or reversionary interest in the site.

12 (4) To pay for the restoration or ecological management on land in natural
13 areas through activities such as prescribed burnings, removal of exotic
14 species, or similar efforts upon the recommendation of the Natural
15 Heritage Program established pursuant to Article 9A of Chapter 113A
16 of the General Statutes, provided that the State shall hold or acquire a
17 property interest in the land either in fee, easement, or reversionary
18 interest.

19 (d) Acquisition. – The Department of Administration may, pursuant to
20 G.S. 143-341, acquire by purchase, gift, or devise all lands and interest in lands selected
21 by the Trustees for acquisition pursuant to this Article. ~~Title to~~ The State shall hold a
22 property interest, either in fee or easement, in any land acquired pursuant to this Article
23 ~~shall be vested in the State.~~ Article. A State agency with management responsibility for
24 land acquired pursuant to this Article may enter into a management agreement or lease
25 with a county, city, town, or private nonprofit organization qualified under
26 G.S. 105-151.12 and G.S. 105-130.34 and certified under section 501(c)(3) of the
27 Internal Revenue Code to aid in managing the land. A management agreement or lease
28 shall be executed by the Department of Administration pursuant to G.S. 143-341.

29 (d1) Local Reimbursement. – In any county in which real property was purchased
30 pursuant to subsection (d) of this section as additions to the fish and wildlife
31 management areas and where less than twenty-five percent (25%) of the land area is
32 privately owned at the time of purchase, that county and any other local taxing unit shall
33 be annually reimbursed, for a period of 20 years, from funds available to the North
34 Carolina Wildlife Resources Commission in an amount equal to the amount of ad
35 valorem taxes that would have been paid to the taxing unit if the property had remained
36 subject to taxation.

37 (e) Reports. – The Secretary shall maintain and revise twice each year a list of
38 ~~acquisitions~~ grants made pursuant to this Article. The list shall include the acreage of
39 each tract, the county in which the tract is located, the amount ~~paid~~ granted from the
40 Fund to acquire the tract, and the State department or division responsible for managing
41 the tract. The Secretary shall furnish a copy of the list to each Trustee, the Joint
42 Legislative Commission on Governmental Operations, the House and Senate
43 Appropriations Subcommittees on Natural and Economic Resources, the Fiscal

1 Research Division, and the Environmental Review Commission within 30 days after
2 each revision.

3 (f) Hunting and Fishing. – No provision of this Article shall be construed to
4 eliminate hunting and fishing, as regulated by the laws of the State of North Carolina,
5 upon properties purchased pursuant to this Article."

6 **SECTION 6. Reserved for future codification purposes.**

7 **SECTION 7.** Landing Jobs Initiative. – Article 10 of Chapter 143B of the
8 General Statutes is amended by adding a new Part to read:

9 "Part 2K. Landing Jobs Initiative.

10 **"§ 143B-437.100. Legislative findings and purpose.**

11 The General Assembly finds that:

12 (1) It is the policy of the State of North Carolina to stimulate economic
13 activity and to create new jobs for the citizens of the State by
14 encouraging and promoting the expansion of existing business and
15 industry within the State and by recruiting and attracting new business
16 and industry to the State.

17 (2) The State is blessed with an abundance of natural and cultural
18 resources and has a rich historical heritage which could serve as the
19 basis for building a thriving economic sector, and the State's economic
20 development efforts to date have failed to fully utilize these resources
21 and heritage.

22 (3) The enactment of this Part is necessary to stimulate the economy,
23 facilitate economic recovery, and create new jobs in North Carolina;
24 and this Part will promote the general welfare and confer, as its
25 primary purpose and effect, benefits on citizens throughout the State
26 through the creation of new jobs, an enlargement of the overall tax
27 base, an expansion and diversification of the State's commercial base,
28 and an increase in revenue to the State and its political subdivisions.

29 **"§ 143B-437.101. Definitions.**

30 The following definitions apply in this Part:

31 (1) Council. – The Landing Jobs Council created pursuant to
32 G.S. 143B-437.103.

33 (2) NCCDI. – The North Carolina Community Development Initiative,
34 Inc.

35 (3) Small business. – Defined in G.S. 105-129.50.

36 **"§ 143B-437.102. Landing Jobs Initiative.**

37 (a) Creation. – There is established the Landing Jobs Initiative to be administered
38 by NCCDI in consultation with the Council. In order to foster job creation and
39 economic development, NCCDI may make grants to local governments and nonprofit
40 organizations as provided in this Part. The Landing Jobs Initiative shall be located
41 administratively in the Department of Commerce but shall exercise its statutory powers
42 and duties independently of the Department of Commerce.

43 (b) Purpose. – The purpose of the Initiative is to foster job creation and economic
44 development while utilizing the State's natural, cultural, and historic resources. In

1 awarding grants under this Part, NCCDI and the Council shall consider only those
2 projects that promote one of the following goals:

- 3 (1) Sustainable tourism development and related projects that attract a
4 broad range of visitors and focus on natural, cultural, historic, or
5 agricultural resources.
- 6 (2) Agribusiness-related projects that promote family farms, sustainable
7 aquaculture, value-added agricultural processing, or new markets for
8 agricultural or aquacultural products.
- 9 (3) Sustainable forestry projects that support community ownership and
10 management of forestlands, sustainable harvests of timber, wood
11 products, and nonwood forest products such as mushrooms or pine
12 straw, and value-added processing of these products.
- 13 (4) Start-up, support, or expansion of entrepreneurial enterprises that
14 utilize the State's natural, cultural, and historic heritage.
- 15 (5) The rehabilitation and reuse of historic buildings and downtown areas
16 in ways which foster further economic development.
- 17 (6) The development of high-quality neighborhoods in low-wealth areas in
18 a manner that is consistent with sound environmental policies.

19 (c) Type of Assistance. – NCCDI, upon consultation with the Council, may make
20 grants under this Part to promote the purposes listed in subsection (b) of this section.
21 The following types of assistance are allowed under this Part:

- 22 (1) Planning grants. – NCCDI may award a planning grant to a local
23 government unit, nonprofit entity, or a group of local government
24 units, nonprofit entities, or both to develop community-based plans for
25 promotion of economic development projects that promote one or
26 more of the goals listed in subsection (b) of this section.
- 27 (2) Project implementation grants. – NCCDI may award a project
28 implementation grant to a local government unit or nonprofit entity to
29 assist these entities in implementing plans developed to promote one
30 or more of the economic development goals listed in subsection (b) of
31 this section.

32 **"§ 143B-437.103. Landing Jobs Council established.**

33 (a) Membership. – The Landing Jobs Council is established. The Council
34 consists of the following 11 members appointed by NCCDI:

- 35 (1) Two members selected from nominations received from the Governor.
- 36 (2) Two members selected from nominations received from the President
37 Pro Tempore of the Senate.
- 38 (3) Two members selected from nominations received from the Speaker of
39 the House of Representatives.
- 40 (4) Four members selected from nominations received from stakeholder
41 organizations representing low-wealth communities, historical
42 preservation interests, downtown revitalization interests,
43 entrepreneurs, or other related constituencies.

1 (5) One member selected by NCCDI who shall serve as chair of the
2 Council.

3 (b) Duties. – The Council shall review applications for grants and loans received
4 pursuant to G.S. 143B-437.104 and make funding recommendations to NCCDI. The
5 Council may act only upon a decision of a majority of its members.

6 (c) Sunshine. – Meetings of the Council are subject to the open meetings
7 requirements of Article 33C of Chapter 143 of the General Statutes. All documents of
8 the Council, including applications for grants, are public records governed by Chapter
9 132 of the General Statutes and any applicable provisions of the General Statutes
10 protecting confidential information.

11 **"§ 143B-437.104. Applications; report; study.**

12 (a) Application. – A local government unit or nonprofit entity, or a group of
13 these entities, shall apply, under oath, to the Council for a grant on a form prescribed by
14 the Council that includes at least all of the following:

15 (1) The location of the project.

16 (2) A description of the project including a statement of how the project
17 will help promote economic development through one or more of the
18 goals listed in G.S. 143B-437.102.

19 (3) Any other information necessary for the Committee to evaluate the
20 application.

21 (b) Report. – NCCDI, in consultation with the Council, shall publish a report on
22 the Landing Jobs Initiative on or before April 30 of each year. The report shall include
23 the following:

24 (1) A listing of each grant awarded during the preceding calendar year,
25 including the name of the entities receiving the grant, a description of
26 the project, and the amount of the grant.

27 (2) An update on the status of projects that received grants in the past.

28 (3) The effectiveness of the program in developing new businesses and
29 jobs.

30 (4) The environmental impact of projects that have received grants or
31 loans under the initiative.

32 (5) The geographic distribution of grants and loans, by number and
33 amount, awarded under the program.

34 (c) Study. – The Council shall conduct a study to determine the minimum
35 funding level required to implement the Landing Jobs Initiative successfully. The
36 Committee shall report the results of this study to the House of Representatives
37 Appropriations Subcommittee on Natural and Economic Resources, the Senate
38 Appropriations Committee on Natural and Economic Resources, and the Fiscal
39 Research Division no later than March 1 of each year."

40 **SECTION 8.** Clean Water Management Trust Fund. – G.S. 113A-256 is
41 amended by adding a new subsection to read:

42 "(k) Local Reimbursement. – In any county in a development tier one area, as
43 designated under G.S. 143B-437.08, in which real property was purchased pursuant to
44 this section, the Fund shall annually reimburse that county and any other local taxing

1 unit for a period of 10 years from funds available to the Fund in an amount equal to the
2 amount of ad valorem taxes that would have been paid to the taxing unit if the property
3 had remained subject to taxation."

4 **SECTION 9.** Allocation of proceeds. – The proceeds of Land and Water
5 Conservation Bonds and notes, including premium thereon, if any, except the proceeds
6 of bonds the issuance of which has been anticipated by bond anticipation notes or the
7 proceeds of refunding bonds or notes, shall be placed by the State Treasurer in a special
8 fund to be designated "Land and Water Conservation Bonds Fund", which may include
9 such appropriate special accounts therein as may be determined by the State Treasurer
10 and shall be disbursed as provided in this act. Moneys in the Land and Water
11 Conservation Bonds Fund shall be allocated and expended as provided in this act.

12 Any additional moneys which may be received by means of a grant or grants
13 from the United States of America or any agency or department thereof or from any
14 other source for deposit to the Land and Water Conservation Bonds Fund may be placed
15 in the Land and Water Conservation Bonds Fund or in a separate account or fund and
16 shall be disbursed, to the extent permitted by the terms of the grant or grants, without
17 regard to any limitations imposed by this act.

18 Moneys in the Land and Water Conservation Bonds Fund or any separate
19 fund or account established under this act may be invested from time to time by the
20 State Treasurer in the same manner permitted for investment of moneys belonging to
21 the State or held in the State treasury, except with respect to grant money to the extent
22 otherwise directed by the terms of the grant. Investment earnings, except investment
23 earnings with respect to grant moneys to the extent otherwise directed or restricted by
24 the terms of the grant, may be (i) credited to the Land and Water Conservation Bonds
25 Fund or any separate fund or account established under this act, (ii) used to pay debt
26 service on the bonds authorized by this act, (iii) used to satisfy compliance with
27 applicable requirements of the federal tax law, or (iv) transferred to the General Fund of
28 the State.

29 The proceeds of bonds and notes may be used with any other moneys made
30 available by the General Assembly for purposes authorized by this act, including the
31 proceeds of any other State bond issues, whether heretofore made available or which
32 may be made available at the session of the General Assembly at which this act is
33 ratified or any subsequent sessions. The proceeds of bonds and notes shall be expended
34 and disbursed under the direction and supervision of the Director of the Budget. The
35 funds provided by this act shall be disbursed for the purposes provided in this act upon
36 warrants drawn on the State Treasurer by the State Controller, which warrants shall not
37 be drawn until requisition has been approved by the Director of the Budget and which
38 requisition shall be approved only after full compliance with the State Budget Act,
39 Chapter 143C of the General Statutes.

40 **SECTION 10.** Election. – The question of the issuance of the bonds
41 authorized by this act shall be submitted to the qualified voters of the State at an
42 election to be held on the first Tuesday after the first Monday of November 2007. Any
43 other primary, election, or referendum validly called or scheduled by law at the time the
44 election on the bond question provided for in this section is held may be held as called

1 or scheduled. Notice of the election shall be given in the manner and at the times
2 required by G.S. 163-33(8). The election and the registration of voters therefor shall be
3 held under and in accordance with the general laws of the State. Absentee ballots shall
4 be authorized in the election.

5 The State Board of Elections shall reimburse the counties of the State for all
6 necessary expenses incurred in holding the election that are in addition to those that
7 would have otherwise been incurred, the same to be paid out of the Contingency and
8 Emergency Fund or other funds available to the State Board of Elections.

9 Ballots, voting systems authorized by Article 14 of Chapter 163 of the
10 General Statutes, or both, may be used in accordance with rules prescribed by the State
11 Board of Elections. The bond questions to be used in the ballots or voting systems shall
12 be in substantially the following form:

13 "[] FOR [] AGAINST

14 The North Carolina Land And Water Conservation Bonds

15 To protect drinking water sources, protect fish and wildlife habitat, preserve working
16 farms, restore historic landmarks, repair, improve, and expand State and local natural
17 areas, parks, and trails, and prevent polluted runoff from contaminating rivers, lakes,
18 and streams, the issuance of one billion dollars (\$1,000,000,000) State of North
19 Carolina Land and Water Conservation Bonds, constituting general obligation bonds of
20 the State secured by a pledge of the faith and credit and taxing power of the State for the
21 purpose of providing funds, with any other available funds, to pay all or a portion of the
22 cost of land acquisition and capital improvements, with all spending subject to an
23 annual public audit."

24 If a majority of those voting on the bond question in the election vote in favor
25 of the issuance of the bonds, those bonds may be issued as provided in this act. If a
26 majority of those voting on the bond question in the election vote against the issuance of
27 the bonds, those bonds shall not be issued.

28 The results of the election shall be canvassed and declared as provided by law
29 for elections for State officers; the results of the election shall be certified by the State
30 Board of Elections to the Secretary of State, in the manner and at the time provided by
31 the general election laws of the State.

32 **SECTION 11.** Issuance of bonds and notes. (a) Terms and Conditions. –
33 Bonds or notes may bear such date or dates, may be serial or term bonds or notes, or any
34 combination thereof, may mature in such amounts and at such time or times, not
35 exceeding 40 years from their date or dates, may be payable at such place or places,
36 either within or without the United States of America, in such coin or currency of the
37 United States of America as at the time of payment is legal tender for payment of public
38 and private debts, may bear interest at such rate or rates, which may vary from time to
39 time, and may be made redeemable before maturity, at the option of the State or
40 otherwise as may be provided by the State, at such price or prices, including a price less
41 than or greater than the face amount of the bonds or notes, and under such terms and
42 conditions, all as may be determined by the State Treasurer, by and with the consent of
43 the Council of State.

1 **SECTION 11.(b)** Signatures; Form and Denomination; Registration. –
2 Bonds or notes may be issued in certificated or uncertificated form. If issued in
3 certificated form, bonds or notes shall be signed on behalf of the State by the Governor
4 or shall bear the Governor's facsimile signature, shall be signed by the State Treasurer
5 or shall bear the State Treasurer's facsimile signature, and shall bear the Great Seal of
6 the State, or a facsimile of the Seal shall be impressed or imprinted thereon. If bonds or
7 notes bear the facsimile signatures of the Governor and the State Treasurer, the bonds or
8 notes shall also bear a manual signature which may be that of a bond registrar, trustee,
9 paying agent, or designated assistant of the State Treasurer. Should any officer whose
10 signature or facsimile signature appears on bonds or notes cease to be such officer
11 before the delivery of the bonds or notes, the signature or facsimile signature shall
12 nevertheless have the same validity for all purposes as if the officer had remained in
13 office until delivery. Bonds or notes may bear the facsimile signatures of persons who
14 at the actual time of the execution of the bonds or notes shall be the proper officers to
15 sign any bond or note although at the date of the bond or note such persons may not
16 have been such officers. The form and denomination of bonds or notes, including the
17 provisions with respect to registration of the bonds or notes and any system for their
18 registration, shall be as the State Treasurer may determine in conformity with this act.

19 **SECTION 11.(c)** Manner of Sale; Expenses. – Subject to the approval by
20 the Council of State as to the manner in which bonds or notes shall be offered for sale,
21 whether at public or private sale, whether within or without the United States, and
22 whether by publishing notices in certain newspapers and financial journals, mailing
23 notices, inviting bids by correspondence, negotiating contracts of purchase or otherwise,
24 the State Treasurer is authorized to sell bonds or notes at one time or from time to time
25 at any rate or rates of interest, which may vary from time to time, and at any price or
26 prices, including a price less than or greater than the face amount of the bonds or the
27 notes, as the State Treasurer may determine. All expenses incurred in the preparation,
28 sale, and issuance of bonds or notes shall be paid by the State Treasurer from the
29 proceeds of bonds or notes or other available moneys.

30 **SECTION 11.(d)** Notes; Repayment.

- 31 (1) By and with the consent of the Council of State, the State Treasurer is
32 hereby authorized to borrow money and to execute and issue notes of
33 the State for the same, but only in the following circumstances and
34 under the following conditions:
35 a. For anticipating the sale of bonds the issuance of which the
36 Council of State has approved, if the State Treasurer considers
37 it advisable to postpone the issuance of the bonds;
38 b. For the payment of interest on or any installment of principal of
39 any bonds then outstanding, if there are not sufficient funds in
40 the State treasury with which to pay the interest or installment
41 of principal as they respectively become due;
42 c. For the renewal of any loan evidenced by notes herein
43 authorized;
44 d. For the purposes authorized in this act; and

1 e. For refunding bonds or notes as herein authorized.

- 2 (2) Funds derived from the sale of bonds or notes may be used in the
3 payment of any bond anticipation notes issued under this act. Funds
4 provided by the General Assembly for the payment of interest on or
5 principal of bonds shall be used in paying the interest on or principal
6 of any notes and any renewals thereof, the proceeds of which shall
7 have been used in paying interest on or principal of the bonds.

8 **SECTION 11.(e)** Refunding Bonds and Notes. – By and with the consent of
9 the Council of State, the State Treasurer is authorized to issue and sell refunding bonds
10 and notes for the purpose of refunding bonds or notes issued pursuant to this act and to
11 pay the cost of issuance of the refunding bonds or notes. The refunding bonds and notes
12 may be combined with any other issues of State bonds and notes similarly secured.
13 Refunding bonds or notes may be issued at any time prior to the final maturity of the
14 debt or obligation to be refunded. The proceeds from the sale of any refunding bonds or
15 notes shall be applied to the immediate payment and retirement of the bonds or notes
16 being refunded or, if not required for the immediate payment of the bonds or notes
17 being refunded, the proceeds shall be deposited in trust to provide for the payment and
18 retirement of the bonds or notes being refunded and to pay any expenses incurred in
19 connection with the refunding. Money in a trust fund may be invested in (i) direct
20 obligations of the United States government, (ii) obligations the principal of and interest
21 on which are guaranteed by the United States government, (iii) obligations of any
22 agency or instrumentality of the United States government if the timely payment of
23 principal and interest on the obligations is unconditionally guaranteed by the United
24 States government, or (iv) certificates of deposit issued by a bank or trust company
25 located in the State if the certificates are secured by a pledge of any of the obligations
26 described in (i), (ii), or (iii) above having an aggregate market value, exclusive of
27 accrued interest, equal at least to the principal amount of the certificates so secured.
28 This section does not limit the duration of any deposit in trust for the retirement of
29 bonds or notes being refunded but that have not matured and are not presently
30 redeemable, or if presently redeemable, have not been called for redemption.

31 **SECTION 11.(f)** Tax Exemption. – Bonds and notes shall at all times be
32 free from taxation by the State or any political subdivision or any of their agencies,
33 excepting estate, inheritance, or gift taxes, income taxes on the gain from the transfer of
34 the securities, and franchise taxes. The interest on the bonds and notes is not subject to
35 taxation as income.

36 **SECTION 11.(g)** Investment Eligibility. – Bonds and notes are securities in
37 which all of the following may invest, including capital in their control or belonging to
38 them: public officers, agencies, and public bodies of the State and its political
39 subdivisions, all insurance companies, trust companies, investment companies, banks,
40 savings banks, savings and loan associations, credit unions, pension or retirement funds,
41 other financial institutions engaged in business in the State, executors, administrators,
42 trustees, and other fiduciaries. Bonds and notes are hereby made securities which may
43 properly and legally be deposited with and received by any officer or agency of the
44 State or political subdivision of the State for any purpose for which the deposit of

1 bonds, notes, or obligations of the State or any political subdivision is now or may
2 hereafter be authorized by law.

3 **SECTION 11.(h)** Faith and Credit. – The faith and credit and taxing power
4 of the State are hereby pledged for the payment of the principal of and the interest on
5 bonds and notes. In addition to the State's right to amend any provision of this act to the
6 extent it does not impair any contractual right of a bond owner, the State expressly
7 reserves the right to amend any provision of this act with respect to the making and
8 repayment of loans, the disposition of any repayments of loans, and any intercept
9 provisions relating to the failure of a local government unit to repay a loan, the bonds
10 not being secured in any respect by loans, any repayments thereof, or any intercept
11 provisions with respect thereto.

12 **SECTION 11.(i)** Minority Business Participation. – The State Treasurer
13 shall provide contracting opportunities for historically underutilized businesses in
14 providing professional services in connection with the issuance of bonds and notes
15 authorized by this act. As used in this subsection, the term "historically underutilized
16 business" means a business described in G.S. 143-48. The State Treasurer shall strive to
17 increase the amount of legal, financial, and other professional services acquired by it
18 from historically underutilized businesses. With the assistance of the Office for
19 Historically Underutilized Businesses in the Department of Administration, the State
20 Treasurer shall set objectives for contracting with these businesses, identify and
21 eliminate barriers or constraints that may restrict these businesses from contracting with
22 the State Treasurer, and develop a plan for meeting its objectives. The State Treasurer
23 shall report quarterly to the Office for Historically Underutilized Businesses on its
24 progress in carrying out the requirements of this subsection.

25 **SECTION 11.(j)** Other Agreements. – The State Treasurer may authorize,
26 execute, obtain, or otherwise provide for bond insurance, investment contracts, credit
27 and liquidity facilities, interest rate swap agreements and other derivative products, and
28 any other related instruments and matters the State Treasurer determines are desirable in
29 connection with the issuance of bonds or notes. The State Treasurer is authorized to
30 employ and designate any financial consultants, underwriters, and bond attorneys to be
31 associated with any bond issue under this act as the State Treasurer considers necessary.

32 **SECTION 12.** Variable rate demand bonds and notes. – In fixing the details
33 of bonds and notes, the State Treasurer may provide that any of the bonds or notes may:

- 34 (1) Be made payable from time to time on demand or tender for purchase
35 by the owner if a credit facility supports the bonds or notes, unless the
36 State Treasurer specifically determines that a credit facility is not
37 required upon a finding and determination by the State Treasurer that
38 the absence of a credit facility will not materially or adversely affect
39 the financial position of the State and the marketing of the bonds or
40 notes at a reasonable interest cost to the State;
- 41 (2) Be additionally supported by a credit facility;
- 42 (3) Be made subject to redemption or a mandatory tender for purchase
43 prior to maturity;

1 (4) Bear interest at a rate or rates that may vary for any period of time, as
2 may be provided in the proceedings providing for the issuance of the
3 bonds or notes, including, without limitation, such variations as may
4 be permitted pursuant to a par formula; and

5 (5) Be made the subject of a remarketing agreement whereby an attempt is
6 made to remarket bonds or notes to new purchasers prior to their
7 presentment for payment to the provider of the credit facility or to the
8 State.

9 If the aggregate principal amount payable by the State under a credit facility
10 is in excess of the aggregate principal amount of bonds or notes secured by the credit
11 facility, whether as a result of the inclusion in the credit facility of a provision for the
12 payment of interest for a limited period of time or the payment of a redemption
13 premium or for any other reason, then the amount of authorized but unissued bonds or
14 notes during the term of such credit facility shall not be less than the amount of such
15 excess, unless the payment of such excess is otherwise provided for by agreement of the
16 State executed by the State Treasurer.

17 **SECTION 13.** Interpretation of act. – (a) Additional Method. – The
18 foregoing sections of this act shall be deemed to provide an additional and alternative
19 method for the doing of the things authorized thereby and shall be regarded as
20 supplemental and additional to powers conferred by other laws, and shall not be
21 regarded as in derogation of any powers now existing.

22 **SECTION 13.(b)** Statutory References. – References in this act to specific
23 sections or Chapters of the General Statutes or to specific acts are intended to be
24 references to these sections, Chapters, or acts as they may be amended from time to
25 time by the General Assembly.

26 **SECTION 13.(c)** Broad Construction. – This act, being necessary for the
27 health and welfare of the people of the State, shall be broadly construed to effect the
28 purposes thereof.

29 **SECTION 13.(d)** Inconsistent Provisions. – Insofar as the provisions of this
30 act are inconsistent with the provisions of any general, special, or local laws, or parts
31 thereof, the provisions of this act shall be controlling.

32 **SECTION 13.(e)** Severability. – If any provision of this act or the
33 application thereof to any person or circumstance is held invalid, such invalidity shall
34 not affect other provisions or applications of the act which can be given effect without
35 the invalid provision or application, and to this end the provisions of this act are
36 declared to be severable.

37 **SECTION 14.** Sections 5(a), 8, and the revisions to G.S. 113-77.9(a)
38 through (c) become effective January 1, 2008, but only upon certification by the State
39 Board of Elections that a majority of those voting on the bond question in Section 10 of
40 this act voted in favor of the issuance of the bonds. The remainder of this act is
41 effective when it becomes law.