

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009**

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**HOUSE BILL 1771
Committee Substitute Favorable 6/1/10**

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

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

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



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

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

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

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

11 (4) General revenues.

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

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

18 **"§ 153A-210.2. Assessments.**

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

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

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

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

38 **"§ 160A-320.1. Revolving loan program for water efficiency improvements.**

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

48 (b) Revolving Loan Fund. – A city may establish a revolving loan fund for the purpose
49 of providing loans to finance the purchase and installation of water conservation systems that
50 are permanently fixed to residential, commercial, or other real property. In addition to a
51 surcharge on rates under G.S. 160A-314, a city may use Energy Efficiency and Conservation

1 Block Grant Funds, property tax revenue, State or federal grant proceeds, or any other
2 unrestricted revenue to fund the revolving loan fund. The annual interest rate charged for the
3 use of funds from the revolving fund may not exceed eight percent (8%) per annum, excluding
4 other fees for loan application review and origination. The term of any loan originated under
5 this section may not be greater than 15 years."

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

8 **"§ 153A-289. Revolving loan program for water efficiency improvements.**

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

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

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

29 **"§ 162A-6.2. Revolving loan program for water efficiency improvements.**

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

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

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

46 **"§ 160A-314. Authority to fix and enforce rates.**

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

1 ...
2 (a3) A city may levy a surcharge of no more than one dollar (\$1.00) on water rates fixed
3 under this section in order to fund a revolving loan program for water conservation systems
4 under G.S. 160A-320.1.

5"

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

7 **"§ 153A-277. Authority to fix and enforce rates.**

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

15 ...

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

19"

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

21 **"§ 160A-209. Property taxes.**

22 ...

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

25 ...

26 (12a) Energy and Water Efficiency. – To provide programs to finance the purchase
27 and installation of distributed generation renewable energy sources, water
28 conservation systems, or energy efficiency improvements that are
29 permanently affixed to residential, commercial, or other real property under
30 G.S. 160A-239.2 or G.S. 160A-320.1.

31"

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

33 **"§ 153A-149. Property taxes; authorized purposes; rate limitation.**

34 ...

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

39 ...

40 (10c) Energy and Water Efficiency. – To provide programs to finance the purchase
41 and installation of distributed generation renewable energy sources, water
42 conservation systems, or energy efficiency improvements that are
43 permanently affixed to residential, commercial, or other real property under
44 G.S. 153A-210.2 or G.S. 153A-289.

45"

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

47 **"§ 105-129.15. Definitions.**

48 The following definitions apply in this Article:

49 ...

50 (4b) Local government infrastructure financing option. – A special assessment
51 under Article 10A of Chapter 160A or Article 9A of Chapter 153A of the

1 General Statutes, or a revolving loan program under G.S. 153A-455,
2 153A-289, 160A-320.1, 160A-459.1, or 162A-6.2.

3 ...

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

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

11 "**§ 105-129.16I. Credit for water conservation systems.**

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

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

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

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

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

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

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

47 **SECTION 7.** Section 5 of this act is effective when it becomes law. Sections 1, 2,
48 3, and 4 of this act become effective October 1, 2010. Section 6 of this act is effective for
49 taxable years beginning on or after January 1, 2011, and applies to amounts paid or incurred by
50 a taxpayer for a water conservation system on or after that date.