
**NORTH CAROLINA
STATE WATER INFRASTRUCTURE AUTHORITY**

DRAFT November 1, 2014 Report to:

- **Environmental Review Commission**
 - **Senate Appropriations Committee on Natural and Economic Resources**
 - **House of Representatives Appropriations Subcommittee on Natural and Economic Resources**
 - **Fiscal Research Division**
-

Prepared by
The North Carolina State Water Infrastructure Authority
November 1, 2014

(This page intentionally left blank)

DRAFT

EXECUTIVE SUMMARY

North Carolina State Water Infrastructure Authority Report

November 1, 2014

The State Water Infrastructure Authority (Authority) and the Division of Water Infrastructure (the Division) were created within the North Carolina Department of Environment and Natural Resources by Session Law 2013-360. The Authority was fully realized in early January 2014 and has met eight times.

This report fulfills the requirement of § 159G-72 that “No later than November 1 of each year, the Authority shall submit a report of its activity and findings, including any recommendations or legislative proposals, to the Senate Appropriations Committee on Natural and Economic Resources, the House of Representatives Appropriations Subcommittee on Natural and Economic Resources, and the Fiscal Research Division of the Legislative Services Commission.”

The items in this report reflect the work of the Authority toward accomplishing the tasks defined in § 159G-71. State Water Infrastructure Authority; powers and duties. Key findings and themes have emerged from the Authority’s discussions and work in 2014, primarily related to these areas of the Wastewater and Drinking Water Reserve Program:

- Allowable uses of the State Reserve grant funds
- Applicant eligibility

As a result, the Authority recommends a number of modifications to § 159G – Water Infrastructure, in order to:

- Ensure that the limited amount of grant funds from the State Reserve programs are awarded to the most economically distressed communities
- Maximize the use of the limited amount of grant funding resources
- Develop incentives to encourage water and wastewater utilities to become more proactive in the management and financing of their systems which could help reduce or eliminate their continued reliance on grant funds

The Authority’s recommendations are summarized as follows:

1. Develop an affordability index to estimate the relative affordability of water and wastewater infrastructure projects for a community compared to other communities in the state using the most recent and applicable information
2. Link the amount of funds provided as grant dollars to the affordability index of the applicant with 100% grant funding provided for the most economically distressed
3. Provide flexibility by allowing the Authority to utilize some considerations in addition to priority criteria and to develop an annual Intended Use Plan for the State Reserve program
4. Broaden the use of grant funds and create incentives for proactive activities by allowing funds to be used to:
 - Investigate the feasibility of system consolidation/ regionalization
 - Identify and assess a utility’s water and/or sewer infrastructure

In addition, other modifications to § 159G are recommended for clarity and consistency.

North Carolina State Water Infrastructure Authority Report

November 1, 2014

Table of Contents

<u>Section</u>	<u>Title</u>	<u>Page No.</u>
	Executive Summary	3
Section 1.	Purpose of Report	5
Section 2.	State Water Infrastructure Authority Activities	5
Section 3.	State Water Infrastructure Authority Findings	7
Section 4.	State Water Infrastructure Authority Recommendations for Changes to § 159G – Water Infrastructure	10
Appendix A.	List of State Water Infrastructure Authority Members Appointed in 2013-2014	15
Appendix B.	Recommended Revised Text of § 159G – Water Infrastructure	16

Section 1. Purpose of Report

This report fulfills the requirement of § 159G-72 that “No later than November 1 of each year, the Authority shall submit a report of its activity and findings, including any recommendations or legislative proposals, to the Senate Appropriations Committee on Natural and Economic Resources, the House of Representatives Appropriations Subcommittee on Natural and Economic Resources, and the Fiscal Research Division of the Legislative Services Commission.”

This is the first such report because the Authority was fully realized in early January 2014. A list of the Authority members appointed in 2013-2014 is provided in Appendix A.

This report presents a number of recommendations for changes to § 159G – Water Infrastructure

The items in this report reflect the work of the Authority toward accomplishing the tasks defined in § 159G-71. State Water Infrastructure Authority; powers and duties. In particular, this report presents a number of recommendations for changes to § 159G – Water Infrastructure.

The Authority’s powers and duties are listed below:

1. Review recommendations for grants and loans submitted to it by the Division of Water Infrastructure
 - Determine the rank of applications
 - Select the applications that are eligible to receive grants and loans
2. Establish priorities for making loans and grants, consistent with federal law
3. Review the criteria for making loans and grants and make recommendations, if any, for additional criteria or changes to the criteria
4. Develop guidelines for making loans and grants
5. Develop a master plan to meet the State's water infrastructure needs
6. Assess and make recommendations on the role of the State in the development and funding of wastewater, drinking water, and stormwater infrastructure
7. Analyze the adequacy of projected funding to meet projected needs over the next five years
8. Make recommendations on ways to maximize the use of current funding resources (federal, State, local) and ensure that funds are used in a coordinated manner
9. Review the application of management practices in wastewater, drinking water, and stormwater utilities and to determine the best practices
10. Assess the role of public-private partnerships in the future provision of utility service
11. Assess the application of the river basin approach to utility planning and management
12. Assess the need for a "troubled system" protocol

Section 2 – State Water Infrastructure Authority Activities

The Authority has met eight times in 2014, in January, February, March, May, July, August, September, and October, with another meeting planned for December, for a total of nine meetings in 2014. Per § 159G-70.(e) the Authority is required to meet a least four times per year, and has met this requirement for the year 2014.

Loan and Grant Funding Awards

The Authority has helped North Carolina meet its water infrastructure needs in part by awarding funding under federal and state programs for wastewater, drinking water and stormwater projects. Funding has been awarded from the five funding sources managed by the Division: the federal-state Clean Water State

Revolving Fund (CWSRF), the federal-state Drinking Water State Revolving Fund (DWSRF), the federal Community Development Block Grant-Infrastructure (CDBG-I) program, the state Wastewater Reserve program and the state Drinking Water Reserve program.

The federal-state SRF programs provide low-interest loans for water, wastewater and stormwater projects to local government units and other eligible applicants. Funding is made available by federal capitalization grants, State matching funds, and repayment of loans. The federal CDBG-I program provides grant funds for water and wastewater projects that serve low-to-moderate income (LMI) persons.

The state Wastewater Reserve and state Drinking Water Reserve programs provide grant funds for wastewater and water projects, respectively, targeted to rural, economically distressed communities pursuant to Section 14.21.(m) of Session Law 2013-360.

Table 1 provides a summary of the applications received by the Division in September 2013, April 2014, and May 2014 and awarded funding by the Authority in January, May and July 2014. Given the amount of funding available in each program, it is apparent that only a small percentage of the total requests could be funded. The annual report prepared by the Department of Environment and Natural Resources for state fiscal year 2013-2014 contains more details of the activities of the funding programs.

Table 1. 2013-2014 Loan and Grant Program Applications Received and Awarded Funding in 2014

Funding Program and Application Round	Number Applications Received	Number Applications Funded	Dollar Amount Requested	Dollar Amount Funded
Federal-State CWSRF (Sept. 2013 and April 2014 Application Rounds)	74	33	\$228.3 million	\$91.6 million
Federal-State DWSRF (Sept. 2013 Application Round)	66	32	\$281.7 million	\$104.7 million
Federal CDBG-I (April and May 2014 Application Rounds)	132	15	\$184.7 million	\$26 million
State Wastewater Reserve (includes High Unit Cost grants and Technical Assistance grants) (April 2014 Application Round)	39	10	\$15.6 million	\$1.74 million
State Drinking Water Reserve (includes High Unit Cost grants and Technical Assistance grants) (April 2014 Application Round)	17	5	\$8.8 million	\$1.76 million
Totals	328	95	\$719.1 million	\$225.8 million

Priority Criteria

Consistent with its powers and duties, the Authority reviewed, made minor modifications to and approved the priority criteria for each program. In addition, the Authority discussed a number of major modifications to the priority criteria and has developed recommendations for modifications which are presented in this report; the development of recommendations by the Authority is provided for in § 159G-72.

Other Activities

The Authority has discussed and reviewed presentations about many of the topics it is to address, per its duties:

- Status of water and wastewater infrastructure master planning in North Carolina (No. 5 – Develop a master plan to meet the State's water infrastructure needs)
- Asset management in North Carolina and around the country (No. 9 – Review the application of management practices in wastewater, drinking water, and stormwater utilities and to determine the best practices)
- Status of public-private partnerships for water and wastewater services in North Carolina and around the country (No. 10 – Assess the role of public-private partnerships in the future provision of utility service)
- The oversight role of the Local Government Commission (LGC) in municipal water and sewer enterprise operations (No. 12 – Assess the need for a “troubled system” protocol)
- Local governments’ financial management of drinking water and wastewater utilities (No. 6 – Assess and make recommendations on the role of the State in the development and funding of wastewater, drinking water, and stormwater infrastructure, and No. 7 – Analyze the adequacy of projected funding to meet projected needs over the next five years)

May and November 2014 Reports

Session Law 2013-360 required the Authority to report no later than May 1, 2014, “...on the distribution of grant funds awarded under Chapter 159G of the General Statutes, as amended by the section, and whether changes are needed to the existing grant program under Chapter 159G of the General Statutes or other available grant programs to better facilitate the dissemination of funds and meet the project needs of rural, economically distressed local governments.”

The Authority provided the report on May 1 and then provided an updated report on July 2 which included the funding awards made by the Authority at its meeting held on May 12, 2014. Those awards were the first round of state grant program funding that occurred since the creation of the Authority, the May 1 report did not contain any recommendations due to the minimal amount of time between the Authority being fully realized and the due date of the report. Based on the results of the round, the Authority began discussion of potential suggested changes to Chapter 159G at its July 17, 2014 meeting. The findings and recommendations presented in this report were developed based on discussions held by the Authority at its meetings in July and September 2014.

Section 3. State Water Infrastructure Authority Findings

This section addresses the key findings and themes that have emerged from the Authority’s discussions and work in 2014. The two federal-state funded programs (CWSRF and DWSRF) are governed by the requirements set forth by the US Environmental Protection Agency although a few requirements for the CWSRF and DWSRF programs are set through North Carolina statutes. The federally-funded CDBG-I program is governed by the requirements of the US Department of Housing and Urban Development.

The State Reserve grant and loan program, however, is completely defined and governed by § 159G and the Authority

Key findings and themes have emerged from the Authority’s discussions and work in 2014, primarily related to these areas of the State Reserve Program:

- Allowable uses of the State Reserve grant funds
- Applicant eligibility

has spent considerable time reviewing and understanding these requirements. Prior to 2013, the General Assembly had not allotted funds to the State Reserve programs since 1998. In the 2013 Budget Bill, the General Assembly allocated grant funds in the amount of \$3.5 million in state fiscal year 2013-2014 and \$5 million in state fiscal year 2014-2015 to the State Reserve programs.

In the 2014 Budget Bill, the \$5 million is a recurring amount. The Authority is sensitive to the fact that state grant funds are currently and for the foreseeable future may likely be limited in dollar amounts. It may be possible that at some time there could be no further provisions for grant funds. With these thoughts in mind, the concerns and findings of the Authority at this time are primarily related to the grant funding provided through the Wastewater Reserve and Drinking Water Reserve as follows:

- Ensuring that the limited amount of grant funds from the State Reserve programs are awarded to the most economically distressed communities pursuant to Section 14.21.(m) of Session Law 2013-360 which states “to meet the needs of rural, economically distressed local governments.”
- Maximizing the use of the limited amount of grant funding resources
- Developing incentives to encourage water and wastewater utilities to become more proactive in the management and financing of their systems which could help reduce or eliminate their continued reliance on grant funds

The 2013 Budget Bill assigned to the Authority the responsibility to “determine the distribution of funds between public water system-related projects and wastewater-related projects, depending upon the number of applications for grants received and the priorities established ...”. As the Authority reviewed the eligible applications, it identified a number of concerns particularly dealing with the applicant’s eligibility as related to its level of economic distress, and also the limited uses of the grant funds. This Section describes the Authority’s findings and concerns with respect to the allowable uses of the state grant funds and how applicant eligibility is established.

Currently Allowed Uses of State Reserve Grant Funds

Currently, the State Reserve programs include four specific types of grants that can be awarded:

- Wastewater High Unit Cost Grants (WWHUC)
- Wastewater Technical Assistance Grants (WWTAG)
- Drinking Water High Unit Cost Grants (DWHUC)
- Drinking Water Technical Assistance Grants (DWTAG)

The High Unit Cost grants (HUC) are provided for the construction of critical infrastructure projects, not for studies or analyses. The Technical Assistance Grants (TAG) are designated for only two purposes, both of which involve a study or analysis related to non-compliance but not infrastructure construction.

Currently Defined Applicant Eligibility for Grant Funds

Under the current statutes, an applicant is eligible for a High Unit Cost (HUC) grant only if the applicant’s residential annual average combined water and sewer bill exceeds 1.5% of the median household income (MHI) of the community. If only water or only sewer service is provided, then the annual average water or sewer bill must exceed 0.75% of the MHI. The MHI values are established by the American Community Survey (ACS) which has replaced census data on income. In the 2013 Budget Bill, the legislature further narrowed the eligibility for the \$3.5 million allotted to the State Reserve for state fiscal year 2013-2014 and the \$5 million allotted to the State Reserve for state fiscal year 2014-2015 to applicants located in Tier 1 and Tier 2 counties only, in an effort to direct funding to the most economically communities; this requirement was not applied to the Reserve grant funds after state fiscal year 2014-2015.

Given the limited amount of current and potentially future grant dollars, the Authority supports providing grant funds to only the most economically distressed communities. Currently and in the past, economic distress has been quantified in only two ways:

- The economic tier of the county in which the applicant is located (applied to the grant funds for state fiscal years 2013-2014 and 2014-2015), and
- The percentage of median household income spent on water and/or sewer service, which is directly related to the water and sewer rates that are set by the applicant

Economic Distress

The Authority has concerns about establishing economic distress based on only the economic tier of a county and the percentage of income spent on water/sewer service since approximately 75% of the communities in the state qualify to receive a HUC grant

The Authority has two primary concerns about establishing economic distress based on only these factors.

First, the economic tier of a county may not accurately reflect the economic conditions within individual communities in a county. The NC Department of Commerce annually ranks the state’s 100 counties based on economic well-being and assigns each a Tier designation. The 40 most distressed counties are designated as Tier 1, the next 40 as Tier 2 and the 20 least distressed as Tier 3. Table 2 provides examples of several Tier 3 counties (least distressed) and local governments within those counties that have high economic distress indicators. For example, Johnston County is designated as Tier 3 (least distressed) but communities within the county (Benson and Kenly) have low-to-moderate income (LMI) percentages well below the state and county LMI percentages, high percentages of MHI spent on water/sewer, and high poverty rates. The local governments shown in Table 2 do not qualify for State Reserve grant funds because they are located in a Tier 3 county, despite having high economic distress indicators.

Table 2. Examples of Tier 3 Counties (least distressed) and Towns within those Counties that have High Economic Distress Indicators: The Towns would not Qualify for State Reserve Grants due to County Tier

Entity	Percentage of Low-to-Moderate Income (LMI) Residents	Median Household Income (MHI) and % Spent on Water/Sewer	Poverty Rate (%)
State of North Carolina	--	\$46,450	16.8 %
Johnston County	Tier 3 with LMI of 48.8 %	\$54,885 (1.63%)	21.4%
○ Town of Benson	79.5 %	\$35,700 (1.88 %)	45.4 %
○ Town of Kenly	72.9 %	\$28,022 (3.67 %)	41.6 %
Moore County	Tier 3 with LMI of 40.9 %	\$53,023 (1.26%)	31.7 %
○ Town of Robbins	72 %	\$37,073 (2.63 %)	28.2 %
Lincoln County	Tier 3 with LMI of 36.8 %	\$44,233 (1.73%)	23.3 %
○ City of Lincolnton	52.9 %	\$33,839 (2.33%)	26 %

If eligibility were based solely on county tier (if limited to Tier 1 and 2 counties only), it can be seen that the needs of an individual community within an overall “least distressed” county could be overlooked and the community would be ineligible for grant funding when in fact that specific community may be rural and highly economically distressed. In addition, while a county’s tier may improve due to overall economic indicators in the county as a whole, an individual community could remain highly distressed; this is particularly possible for small, rural communities within counties that are located adjacent to growing urban centers.

Second, the percentage of median household income spent on water and/or sewer service may not accurately reflect economic conditions within a community. Table 3 provides examples of Tier 1 counties (most distressed) and local governments within those counties that would not qualify for grant funds because the residential annual average combined water and sewer bill does not exceed 1.5% of the MHI of the community. For example, Scotland County is the most distressed county in North Carolina based on tier designations. The Town of Laurinburg has high economic distress indicators for LMI percentages, MHI, and poverty rates. However, the percentage of MHI spent on water/sewer is low (less than 1.5%). Despite Laurinburg’s high economic distress indicators and its location in the most distressed county in the state, it does not qualify for State Reserve grant funds. The City of Rockingham shows similar results.

Table 3. Examples of Tier 1 Counties (most distressed) and Towns within those Counties that do not meet the High Unit Cost Threshold: The Towns would not Qualify for State Reserve Grants due to Water/Sewer Costs Less than 1.5% of MHI

Entity	Percentage of Low-to-Moderate Income (LMI) Residents	Median Household Income (MHI) and % Spent on Water/Sewer	Poverty Rate (%)
State of North Carolina	--	\$46,450	16.8 %
Scotland County (most distressed county based on tier rankings)	Tier 1 with LMI of 49.6 %	\$30,472 (county has no water/sewer systems)	29.2 %
○ City of Laurinburg	56.3 %	\$30,459 (1.44 %)	33.8 %
Richmond County	Tier 1 with LMI of 49 %	\$31,726 (rates not available)	29.3 %
○ City of Rockingham	56.1 %	\$27,371 (1.14 %)	28.2 %

The examples shown in Tables 2 and 3 demonstrate the need for flexibility in determining grant eligibility. In an effort to help identify those communities most in need of grant funds, there are other factors that may be considered to define a community’s relative ability to afford to pay for its water and sewer infrastructure projects compared to other communities in North Carolina.

These two primary findings by the Authority are the impetus for its development of four specific recommendations for changes to § 159G – Water Infrastructure, that would enable significant improvements to the grant fund requirements. These recommendations are presented in Section 4.A of this report.

Section 4. State Water Infrastructure Authority Recommendations for Changes to § 159G – Water Infrastructure

In this Section, the Authority provides its recommendations for modifications to § 159G in accordance with § 159G-72. The specific recommended modifications are included in Appendix B. The modifications include changes pursuant to:

- A. Recommendations based on the Authority’s findings described in Section 3 of this report
- B. June 2014 modifications to Title VI of the Clean Water Act and provisions of the Safe Drinking Water Act regarding loan maturity
- C. Additional modifications related to providing flexibility to the Department, providing clarity on certain requirements, and reflecting federal law changes

A. Recommendations based on the Authority’s findings described in Section 3 of this report

As a result of the Findings described in Section 3 of this report, the Authority provides four recommendations:

I. Authority Recommendations for Awarding of Grant Funds to the Most Economically Distressed Communities by Defining an Affordability Index

Given the limited amount of current and potentially future grant dollars, the Authority supports providing grant funds to only the most economically distressed communities. Currently and in the past, economic distress has been quantified in only two ways: (1) the economic tier of the county in which the applicant is located (applied to the grant funds for state fiscal years 2013-2014 and 2014-2015); and (2) the percentage of median household income spent on water and/or sewer service, which is directly related to the water and sewer rates that are set by the applicant.

To help identify those communities most in need of grant funds, there are other factors that may be considered to define a community’s relative ability to afford to pay for its water and sewer infrastructure projects compared to other communities in North Carolina. Such factors may include poverty rates, unemployment rates, and the population of the served community, in addition to water and/or sewer rates or median household income. The federal-state SRF programs utilize poverty rates and the percentage of MHI spent on water and/or sewer service; under the June 2014 changes to the Clean Water Act, the following factors must also be included: income, unemployment rates and population trends. Allowing other factors to be considered would allow the Division and the Authority to consider possible synchronization of the federal and state programs to provide paired funding packages to applicants; this alignment of funding would be designed such that no federal requirements would be added to the state program requirements unless allowed by the Division and Authority.

Recommendation I
Develop an affordability index to estimate the relative affordability of water and wastewater infrastructure projects for a community compared to other communities in the state using the most recent and applicable information

In accordance with the Authority’s power/duty defined in § 159G-71.(2) – to establish priorities for making loans and grants, the following recommendation is made:

- Allow the Authority to define an affordability index that would allow the consideration of the most recent and applicable information in determining the affordability of water and wastewater infrastructure. The details of the affordability index will be developed by the Division and the Authority.
- Modify § 159G-20 accordingly.

II. Authority Recommendations for Maximizing Use of Limited Grant Funding Resources by Allowing Tiered Grant Funding

When combined with Recommendation I. above, this recommendation would maximize the use of the limited grant funding resources by linking the amount of funds provided as grant dollars to the affordability index of the applicant. For example, the lower the applicant’s affordability index (the more economically distressed), the higher the percentage of grant funds that could be offered, ranging from 100% grant to 25% grant. The higher the affordability index of an applicant, the less grant it could be offered with the remainder offered as low-interest loan dollars which it should be able to afford given its index compared to others in the state. This approach would provide 100% grant funding (up to the

maximum defined in § 159G-36(c)(1), (2) and (3)) for the most economically distressed communities, thereby potentially allowing the funding of more projects with grant dollars.

In accordance with the Authority's power/duty defined in § 159G-71.(8) – to make recommendations on ways to maximize the use of current funding resources, the following recommendations are made:

- Limit the percentage of total construction costs covered by grant funds based on the affordability index of the applicant.
- Modify § 159G-31 accordingly.

Recommendation II

Link the amount of funds provided as grant dollars to the affordability index of the applicant with 100% grant funding provided for the most economically distressed

III. Authority Recommendations for Changes to Criteria for Loan or Grant from the Reserve Program

§ 159G-23 currently requires the Division to assign points to an application based on 13 common criteria. Currently, the Department of Environment and Natural Resources is bound by § 159G-23, and the Authority is not bound to utilize these criteria under Article 5 of the statute. It is recommended that this discrepancy in requirements be corrected and at the same time, reduce the items to those that are directly related to water and wastewater infrastructure and consistent with the powers assigned to the Authority.

Additionally, it is recommended that the statute more specifically reflect the flexibility of the Authority as provided for in § 159G-71.(1) and (2) by designating the items as considerations rather than criteria (to be applied by the Authority during its consideration of applications or not) and that the Division and the Authority develop an annual Intended Use Plan for the Reserve program, similar to the annual Intended Use Plans that are developed for the federal-state funded SRF programs. The Reserve Intended Use Plan would be publicly noticed for review annually.

Recommendation III

Provide flexibility by allowing the Authority to utilize some considerations in addition to priority criteria and to develop an annual Intended Use Plan for the State Reserve program

In accordance with the Authority's power/duty defined in § 159G-71.(3) – to review the criteria for making loans and grants and make recommendations for additional criteria or changes to the criteria, the following recommendations are made:

- Reduce the 13 common criteria to 5 considerations that are directly related to water and wastewater infrastructure.
- Allow the Division and the Authority to develop an annual Reserve Intended Use Plan which would be publicly noticed for review.
- Modify § 159G-23 accordingly.

IV. Authority Recommendations for Incentives for Proactive Infrastructure Management and Financing by Broadening Eligible Grant Uses

Currently, the Technical Assistance Grants (TAG) may only be utilized to determine how to correct deficiencies in infrastructure that is not in compliance with/at risk of violating permit limits or State law. There is no provision for grant funds to assist an applicant with studies or analyses before it violates/is at risk of violating permits or laws, or for any other type of analysis.

While many types of studies and analyses could be useful to communities, two studies in particular are recommended to broaden the use of grant funds by providing incentives to encourage water and wastewater utilities to become more proactive in the management and financing of their systems. Such analyses would lead to improved understanding of infrastructure needs and financial requirements which would help reduce or eliminate a utility's reliance on grant funds.

In accordance with the Authority's power/duty defined in § 159G-71.(3) – to review the criteria for making loans and grants and make recommendations for additional criteria or changes to the criteria, the following recommendations are made:

- Provide grant funds to investigate the feasibility of consolidation/regionalization. Such an analysis could help utilities that may be non-compliant or non-viable or seeking to improve their operations efficiency/become a more competitive utility provider by defining a potential option of joining with another utility. It is recognized that non-viability could be attributed to a number of factors including inadequate utility revenue or loss of qualified operators which could potentially be remedied by consolidating or regionalizing operations.
- Provide grant funds to identify and assess a utility's water and/or sewer infrastructure. A utility may be unaware of the location, extent or condition of its infrastructure possibly due to inheriting the system from a private entity such as a mill or manufacturing facility or due to the loss of staff who are knowledgeable of the infrastructure. Without this knowledge, a utility may not be fully aware of its monetary needs in order to operate and maintain its system and may rely on grants to 'fix' problems as they are identified – often by catastrophic failure – and for which the utility has not budgeted; this could lead to a potentially continuous cycle of relying upon grant funding to 'band aid' a system. By providing a grant to inventory and assess its infrastructure, a utility would gain knowledge of its system, be able to develop costs for replacement/repairs/upgrades and continuous maintenance, evaluate its rate structure, and begin a capital improvement program (CIP) as part of realistically addressing its needs via rate adjustment and low-interest loans, rather than dependence on grant funds. As utilities better understand their infrastructure and quantify their needs, the better the Authority will be able to address these needs during development of the master plan to meet the State's water infrastructure needs (§ 159G-71.5 contains the Authority's duty to develop this plan). In addition, the Division will then know these needs and use them as input to the CWSRF and DWSRF needs surveys, which could then result in higher federal allocations to these programs in North Carolina.
- Modify § 159G-33 and 34 accordingly.

Recommendation IV

Broaden the use of grant funds and create incentives for proactive activities by allowing funds to be used to:

- Investigate the feasibility of system consolidation/regionalization
- Identify and assess a utility's water and/or sewer infrastructure

B. Recommendations based on June 2014 modifications to Title VI of the Clean Water Act and existing provisions of the Safe Drinking Water Act

In June 2014, changes were made by congress to Title VI of the Clean Water Act regarding allowing for a maximum loan maturity of 30 years. This change to the Clean Water Act provided consistency between it and existing provisions of the Safe Drinking Water Act (note that under the Safe Drinking Water Act, the 30 year loan maturity term is limited to disadvantaged communities only). Under the current statute, the maximum loan maturity is 20 years or the project's expected life, whichever is shorter.

- The Authority recommends that § 159G be consistent with the Clean Water Act and the Safe Drinking Water Act by modifying § 159G-40.(b)(2) to allow the maximum loan maturity of 30 years or the project's expected life, whichever is shorter.

C. Additional modifications

I. Session Law 2014-100 Provision

Session Law 2014-100 modified § 159G-37 by adding a new paragraph (b) requiring local governments applying for loans or grants for water or wastewater purposes to certify that no funds received from water or wastewater utility operations have been transferred to the local government's general fund for the purpose of supplementing the resources of the general fund. The new paragraph would benefit by clarifying two items. First, the basis for making the certification is not specified and it is recommended that the paragraph be modified by stating that the certification must be based on a current audit. Second, it is recommended that a statement be added to clarify that the certification does not include the movement of funds from the utility to the general fund to reimburse funds loaned or contributed to the utility.

- In accordance with § 159G-72, the Authority recommends that § 159G-37.(b) be modified accordingly.

II. Other Changes

In accordance with § 159G-72, other modifications are recommended as described below. Appendix B, which contains the specific recommended modifications, includes an explanation of the need for each proposed change.

- Changes needed in order for the recommendations in this Section to be compatible with other parts of the statute.
 - Changes to definitions (§ 159G-20).
 - Changes to provide the Division with the ability to better manage cash flow by adding § 159G-22.(h) and (i).
 - Specification of the amount of grant funds provided for the recommended Asset Inventory and Assessment grant (§ 159G-36.(c)(5)).
 - Changes to clarify the requirements for the engineering report, environmental assessment and public hearing (§ 159G-38); as currently written it is a regulatory burden since applicants are required to expend funds to develop documents prior to knowing if they will receive funding.
-

APPENDIX A

List of State Water Infrastructure Authority Members appointed in 2013-2014

The State Water Infrastructure Authority was created within the North Carolina Department of Environment and Natural Resources by Session Law 2013-360. The nine members of the Authority that were appointed in 2013-2014 are listed below:

Cite § 159G-70.(b)	State Water Infrastructure Authority Members appointed in 2013-2014		
	Name	Title	Appointing Authority
(1)	Kim Colson – Chair	Acting Director, Division of Water Infrastructure	Ex-Officio
(2)	Dr. Patricia Mitchell	Assistant Secretary, Rural Development Division; Department of Commerce	Ex-Officio
(3)	Vance Hollomon	Deputy Treasurer, Local Government Commission	Ex-Officio
(4)	JD Solomon	Vice President, CH2MHILL	Governor
(5)	Gwen Baker	President, CDM Federal Programs, CDM Smith	Governor
(6)	Leila Goodwin	Water Resources Manager, Town of Cary	Senate Pro Tempore
(7)	Charles Vines	Mitchell County Manager	Senate Pro Tempore
(8)	Cal Stiles	Cherokee County Commissioner	Speaker of the House
(9)	Maria Hunnicutt	Manager, Broad River Water Authority	Speaker of the House

APPENDIX B

Recommended Revised Text of § 159G – Water Infrastructure

DRAFT