

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1995

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SENATE BILL 908
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Short Title: Water and Sewer Authority Powers.

(Public)

Sponsors: Senators Hartsell and Soles.

Referred to: Finance

May 1, 1995

A BILL TO BE ENTITLED

1 AN ACT RELATING TO THE POWER OF WATER AND SEWER AUTHORITIES
2 CREATED PURSUANT TO ARTICLE 1 OF CHAPTER 162A OF THE GENERAL
3 STATUTES TO REQUIRE CONNECTIONS TO WATER SYSTEMS, SEWER
4 SYSTEMS, OR COMBINED WATER AND SEWER SYSTEMS OWNED,
5 LEASED, OR OPERATED, BY THE AUTHORITIES AND TO THE POWER OF
6 CITIES AND COUNTIES TO REQUIRE CONNECTIONS TO WATER AND
7 SEWER SYSTEMS.
8

9 The General Assembly of North Carolina enacts:

10 Section 1. G.S. 162A-6 reads as rewritten:

11 "**§ 162A-6. Powers of authority generally.**

12 Each authority created hereunder shall be deemed to be a public instrumentality
13 exercising public and essential governmental functions to provide for the public health
14 and welfare, and each such authority is, subject to the provisions of G.S. 162A-7, hereby
15 authorized and empowered:

- 16 (1) To adopt bylaws for the regulation of its affairs and the conduct of its
17 business;
- 18 (2) To adopt an official seal and alter the same at pleasure;
- 19 (3) To maintain an office at such place or places as it may designate;

- 1 (4) To sue and be sued in its own name, plead and be impleaded;
2 (5) To acquire, lease as lessee or lessor, construct, reconstruct, improve,
3 extend, enlarge, equip, repair, maintain and operate any water system or
4 part thereof or any sewer system or part thereof or any combination
5 thereof within or without the participating political subdivisions or any
6 thereof;
7 (6) To issue revenue bonds of the authority as hereinafter provided to pay
8 the cost of such acquisition, construction, reconstruction, improvement,
9 extension, enlargement or equipment;
10 (7) To issue revenue refunding bonds of the authority as hereinafter
11 provided;
12 (8) To combine any water system and any sewer system as a single system
13 for the purpose of operation and financing;
14 (9) To fix and revise from time to time and to collect rates, fees and other
15 charges for the use of or for the services and facilities furnished by any
16 system operated by the authority;
17 (10) To acquire in the name of the authority by gift, grant, purchase, devise,
18 exchange, lease, acceptance of offers of dedication by plat, or any other
19 lawful method, to the same extent and in the same manner as provided
20 for cities and towns under the provisions of G.S. 160A-240.1 and G.S.
21 160A-374, or the exercise of the right of eminent domain in accordance
22 with the General Statutes of North Carolina which may be applicable to
23 the exercise of such powers by municipalities or counties, any lands or
24 rights in land or water rights in connection therewith, and to acquire
25 such personal property, as it may deem necessary in connection with the
26 acquisition, construction, reconstruction, improvement, extension,
27 enlargement or operation of any water system or sewer system, and to
28 hold and dispose of all real and personal property under its control;
29 provided, that the taking of water from any stream or reservoir by any
30 authority created under the provisions of this Article shall not vest in the
31 taker any rights by prescription; provided, further, that nothing in this
32 section shall affect rights by prescription, if any, now held by any
33 municipality and which may be later transferred to any authority of
34 which such municipality may become a member;
35 (11) To make and enter into all contracts and agreements necessary or
36 incidental to the performance of its duties and the execution of its
37 powers under this Article, including a trust agreement or trust
38 agreements securing any revenue bonds issued hereunder, and to
39 employ such consulting and other engineers, superintendents, managers,
40 construction and financial experts, accountants and attorneys, and such
41 employees and agents as may, in the judgment of the authority be
42 deemed necessary, and to fix their compensation; provided, however,

1 that all such expenses shall be payable solely from funds made available
2 under the provisions of this Article;

3 (12) To enter into contracts with the government of the United States or any
4 agency or instrumentality thereof, or with any political subdivision,
5 private corporation, copartnership, association or individual providing
6 for the acquisition, construction, reconstruction, improvement,
7 extension, enlargement, operation or maintenance of any water system
8 or sewer system or providing for or relating to the treatment and
9 disposal of sewage or providing for or relating to any water system or
10 the purchase or sale of water;

11 (13) To receive and accept from any federal, State or other public agency and
12 any private agency, person or other entity, donations, loans, grants, aid
13 or contributions of any money, property, labor or other things of value
14 for any sewer system or water system, and to agree to apply and use the
15 same in accordance with the terms and conditions under which the same
16 are provided;

17 (14) To enter into contract with any political subdivision by which the
18 authority shall assume the payment of the principal of and interest on
19 indebtedness of such subdivision; and

20 (14a) To make special assessments against benefited property within the area
21 served or to be served by the authority for the purpose of constructing,
22 reconstructing, extending, or otherwise improving water systems or
23 sanitary collection, treatment, and sewage disposal systems, in the same
24 manner that a county may make special assessments under authority of
25 Chapter 153A, Article 9, except that the language appearing in G.S.
26 153A-185 reading as follows: 'A county may not assess property within
27 a city pursuant to subdivision (1) or (2) of this section unless the
28 governing board of the city has by resolution approved the project,' shall
29 not apply to assessments levied by Water and Sewer Authorities
30 established pursuant to Chapter 162A, Article 1, of the General Statutes.
31 For the purposes of this paragraph, references in Chapter 153A, Article
32 9, to the 'county,' the 'board of county commissioners,' 'the board' or a
33 specific county official or employee are deemed to refer, respectively, to
34 the authority and to the official or employee of the authority who
35 performs most nearly the same duties performed by the specified county
36 official or employee.

37 Assessment rolls after being confirmed shall be filed for registration
38 in the office of the Register of Deeds of the county in which the
39 property being assessed is located, and the term 'county tax collector'
40 wherever used in G.S. 153A-195 and 153A-196, shall mean the
41 Executive Director or other administrative officer designated by the
42 authority to perform the functions described in said sections of the
43 statute.

- 1 (14b) To provide for the defense of civil and criminal actions and payment of
2 civil judgments against employees and officers or former employees and
3 officers and members or former members of the governing body as
4 authorized by G.S. 160A-167, as amended.
- 5 (14c) To adopt ordinances to regulate and control the discharge of sewage or
6 stormwater into any sewerage system owned or operated by the
7 authority and to adopt ordinances to regulate and control structural and
8 natural stormwater and drainage systems of all types. Prior to the
9 adoption of any such ordinance or any amendment to any such
10 ordinance, the authority shall first pass a declaration of intent to adopt
11 such ordinance or amendment. The declaration of intent shall describe
12 the ordinance which it is proposed that the authority adopt. The
13 declaration of intent shall be submitted to each governing body for
14 review and comment. The authority shall consider any comment or
15 suggestions offered by any governing body with respect to the proposed
16 ordinance or amendment. Thereafter, the authority shall be authorized to
17 adopt such ordinance or amendment to it at any time after 60 days
18 following the submission of the declaration of intent to each governing
19 body.
- 20 (14d) To require the owners of developed property on which there are situated
21 one or more residential dwelling units or commercial establishments
22 located within the jurisdiction of the authority and within a reasonable
23 distance of any waterline or sewer collection line owned, leased as
24 lessee, or operated by the authority to connect the property with the
25 waterline, sewer connection line, or both and fix charges for the
26 connections. The power granted by this subdivision may be exercised
27 by an authority only to the extent that the service, whether water, sewer,
28 or a combination thereof, to be provided by the authority is not then
29 being provided to the improved property by any other political
30 subdivision or by a public utility regulated by the North Carolina
31 Utilities Commission pursuant to Chapter 62 of the General Statutes. In
32 the case of improved property that would qualify for the issuance of a
33 building permit for the construction of one or more residential dwelling
34 units or commercial establishments and where the authority has installed
35 water or sewer lines or a combination thereof directly available to the
36 property, the authority may require payment of a periodic availability
37 charge, not to exceed the minimum periodic service charge for
38 properties that are connected.
- 39 (15) To do all acts and things necessary or convenient to carry out the
40 powers granted by this Article.
- 41 (16) To purchase real or personal property as provided by G.S. 160A-20, in
42 addition to any other method allowed under this Article."
- 43 Sec. 2. G.S. 162A-14 reads as rewritten:

1 "§ 162A-14. Conveyances and contracts between political subdivisions and
2 authority.

3 The governing body of any political subdivision is hereby authorized and empowered:

4 (1) Pursuant to the provisions of G.S. 160A-274 and
5 subject to the approval of the Local Government Commission, except
6 for action taken hereunder by any State agency, to transfer jurisdiction
7 over, and to lease, lend, grant or convey to an authority upon the request
8 of the authority, upon such terms and conditions as the governing body
9 of such political subdivision may agree with the authority as reasonable
10 and fair, the whole or any part of any existing water system or sewer
11 system or such real or personal property as may be necessary or
12 desirable in connection with the acquisition, construction,
13 reconstruction, improvement, extension, enlargement, equipment,
14 repair, maintenance or operation of any water system or sewer system or
15 part thereof by the authority, including public roads and other property
16 already devoted to public use;

17 (2) To make and enter into contracts or agreements with an authority, upon
18 such terms and conditions and for such periods as are agreed to by the
19 governing body of such political subdivision and the authority;

20 a. For the collection, treatment or disposal of sewage by the
21 authority or for the purchase of a supply of water from the
22 authority;

23 b. For the collecting by such political subdivision or by the
24 authority of fees, rates or charges for water furnished to such
25 political subdivision or to its inhabitants and for the services and
26 facilities rendered to such political subdivision or to its
27 inhabitants by any water system or sewer system of the authority,
28 and for the enforcement of delinquent charges for such water,
29 services and facilities; ~~and~~

30 c. For shutting off the supply of water furnished by any water
31 system owned or operated by such political subdivision in the
32 event that the owner, tenant or occupant of any premises utilizing
33 such water shall fail to pay any rates, fees or charges for the use
34 of or for the services furnished by any sewer system of the
35 authority, within the time or times specified in such contract; and

36 d. For requiring the owners of developed property on which there
37 are situated one or more residential dwelling units or commercial
38 establishments located within the corporate limits of the political
39 subdivision and located within a reasonable distance of any
40 waterline or sewer connection line owned, leased as lessee, or
41 operated by the authority to connect to the line and collecting, on
42 behalf of the authority, charges for the connections and requiring,
43 as a condition to the issuance of any development permit or

1 building permit by the political subdivision, evidence that any
2 impact fee by the authority has been paid by or on behalf of the
3 applicant for the permit.

4 (3) To fix, and revise from time to time, rates, fees and other charges for
5 water and for the services furnished or to be furnished by any water
6 system or sewer system of the authority, or parts thereof, under any
7 contract between the authority and such political subdivision, and to
8 pledge all or any part of the proceeds of such rates, fees and charges to
9 the payment of any obligation of such political subdivision under such
10 contract; and

11 (4) In its discretion, to submit to the qualified electors under the election
12 laws applicable to such political subdivision any contract or agreement
13 which such governing body is authorized to make and enter into with
14 the authority under the provisions of this Article."

15 Sec. 3. G.S. 153A-284 reads as rewritten:

16 "**§ 153A-284. Power to require connections.**

17 A county may require the owner of ~~improved property~~ developed property on which
18 there are situated one or more residential dwelling units or commercial establishments
19 located so as to be served by a water line or sewer collection line ~~owned or operated by the~~
20 county to connect his ~~owned, leased as lessee, or operated by the county or on behalf of the~~
21 county to connect the owner's premises with the water or sewer line and may fix charges
22 for these connections. In the case of improved property that would qualify for the
23 issuance of a building permit for the construction of one or more residential dwelling
24 units or commercial establishments and where the county has installed water or sewer
25 lines or a combination thereof directly available to the property, the county may require
26 payment of a periodic availability charge, not to exceed the minimum periodic service
27 charge for properties that are connected."

28 Sec. 4. G.S. 160A-317(a) reads as rewritten:

29 "(a) Connections. – A city may require an owner of ~~improved property~~ developed
30 property on which there are situated one or more residential dwelling units or commercial
31 establishments located within the city limits and ~~upon or within a reasonable distance of~~
32 any water line or sewer collection line ~~owned or leased and owned, leased as lessee, or~~
33 operated by the city or on behalf of the city to connect the owner's premises with the
34 water or sewer line or both, and may fix charges for the connections. In lieu of requiring
35 connection under this subsection and in order to avoid hardship, the city may require
36 payment of a periodic availability charge, not to exceed the minimum periodic service
37 charge for properties that are connected."

38 Sec. 5. It is the express purpose of this act to provide additional and alternative
39 powers to the political subdivisions and authorities affected by this act and to provide
40 additional and alternative methods by which the functions affected by this act may be
41 performed. This act is not intended, and shall not be construed, to derogate, limit, or
42 repeal any power now existing under any other law, whether general, special, or local.

- 1 Sec. 6. All general, special, or local laws, or parts thereof, inconsistent with
2 the provisions of this act are declared to be inapplicable to the provisions of this act.
3 Sec. 7. This act is effective upon ratification.