

GENERAL ASSEMBLY OF NORTH CAROLINA

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HOUSE BILL 501*
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Senate Finance Committee Substitute Adopted 6/28/91

Short Title: Stormwater Utilities.

(Public)

Sponsors:

Referred to:

April 1, 1991

A BILL TO BE ENTITLED

AN ACT TO CLARIFY THE PUBLIC ENTERPRISE LAW WITH RESPECT TO
STORMWATER UTILITIES ESTABLISHED BY CITIES AND COUNTIES AND
TO GIVE WATER AND SEWER AUTHORITIES THE ABILITY TO OPERATE
AND FINANCE STORMWATER UTILITIES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 160A-314 reads as rewritten:

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

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

(a1) Before it establishes or revises a schedule of rates, fees, charges, or penalties for structural and natural stormwater and drainage systems under this section, the city council shall hold a public hearing on the matter. A notice of the hearing shall be given at least once in a newspaper having general circulation in the area, not less than seven days before the public hearing. The hearing may be held concurrently with the public hearing on the proposed budget ordinance.

Fees established as provided in this subsection shall be made applicable throughout the area of the city. Schedules of rates, fees, charges, and penalties for providing structural and natural stormwater and drainage system service may vary according to

1 whether the property served is residential, commercial, or industrial property, the
2 property's use, the size of the property, the area of impervious surfaces on the property,
3 the quantity and quality of the runoff from the property, the characteristics of the
4 watershed into which stormwater from the property drains, and other factors that affect
5 the stormwater drainage system. Rates, fees, and charges imposed under this section
6 may not exceed the city's cost of providing a stormwater and drainage system.

7 No stormwater utility fee may be levied under this subsection whenever two or more
8 units of local government operate separate structural and natural stormwater and
9 drainage system services in the same area within a county. However, two or more units
10 of local government may allocate among themselves the functions, duties, powers, and
11 responsibilities for jointly operating a single structural and natural stormwater and
12 drainage system service in the same area within a county, provided that only one unit
13 may levy a fee pursuant to this act within the joint service area. For purposes of this
14 subsection, a unit of local government shall include a regional authority providing
15 structural and natural stormwater and drainage system services.

16 (b) A city shall have power to collect delinquent accounts by any remedy provided by
17 law for collecting and enforcing private ~~debts~~-debts, and may specify by ordinance the
18 order in which partial payments are to be applied among the various enterprise services
19 covered by a bill for the services. A city may also discontinue service to any customer
20 whose account remains delinquent for more than 10 days. When service is discontinued
21 for delinquency, it shall be unlawful for any person other than a duly authorized agent
22 or employee of the city to do any act that results in a resumption of services. If a
23 delinquent customer is not the owner of the premises to which the services are
24 delivered, the payment of the delinquent account may not be required before providing
25 services at the request of a new and different tenant or occupant of the premises, but this
26 restriction shall not apply when the premises are occupied by two or more tenants
27 whose services are measured by the same meter.

28 (c) Except as provided in subsection (d), rents, rates, fees, charges, and penalties
29 for enterprisory services shall be legal obligations of the person contracting for them,
30 and shall in no case be a lien upon the property or premises ~~served~~-served, provided that
31 no contract shall be necessary in the case of structural and natural stormwater and
32 drainage systems.

33 (d) Rents, rates, fees, charges, and penalties for enterprisory services shall be
34 legal obligations of the owner of the premises served when:

- 35 (1) The property or premises is leased or rented to more than one tenant
36 and services rendered to more than one tenant are measured by the
37 same meter.
38 (2) Charges made for use of a sewage system are billed separately from
39 charges made for the use of a water distribution system.

40 (e) Nothing in this section shall repeal any portion of any city charter
41 inconsistent herewith."

42 Sec. 2. G.S. 153A-277 reads as rewritten:

43 "**§ 153A-277. Authority to fix and enforce rates.**

1 (a) A county may establish and revise from time to time schedules of rents, rates,
2 fees, charges, and penalties for the use of or the services furnished by a public
3 enterprise. Schedules of rents, rates, fees, charges, and penalties may vary for the same
4 class of service in different areas of the county and may vary according to classes of
5 service, and different schedules may be adopted for services provided outside of the
6 county.

7 (a1) Before it establishes or revises a schedule of rates, fees, charges, or penalties
8 for structural and natural stormwater and drainage systems under this section, the board
9 of commissioners shall hold a public hearing on the matter. A notice of the hearing
10 shall be given at least once in a newspaper having general circulation in the area, not
11 less than seven days before the public hearing. The hearing may be held concurrently
12 with the public hearing on the proposed budget ordinance.

13 Fees established as provided in this subsection shall be made applicable throughout
14 the area of the county outside municipalities. Schedules of rates, fees, charges, and
15 penalties for providing structural and natural stormwater and drainage system service
16 may vary according to whether the property served is residential, commercial, or
17 industrial property, the property's use, the size of the property, the area of impervious
18 surfaces on the property, the quantity and quality of the runoff from the property, the
19 characteristics of the watershed into which stormwater from the property drains, and
20 other factors that affect the stormwater drainage system. Rates, fees, and charges
21 imposed under this section may not exceed the county's cost of providing a stormwater
22 and drainage system.

23 No stormwater utility fee may be levied under this subsection whenever two or more
24 units of local government operate separate structural and natural stormwater and
25 drainage system services in the same area within a county. However, two or more units
26 of local government may allocate among themselves the functions, duties, powers, and
27 responsibilities for jointly operating a single structural and natural stormwater and
28 drainage system service in the same area within a county, provided that only one unit
29 may levy a fee pursuant to this act within the joint service area. For purposes of this
30 subsection, a unit of local government shall include a regional authority providing
31 structural and natural stormwater and drainage system services.

32 (b) A county may collect delinquent accounts by any remedy provided by law for
33 collecting and enforcing private ~~debts~~-debts, and may specify by ordinance the order in
34 which partial payments are to be applied among the various enterprise services covered
35 by a bill for the services. A county may also discontinue service to a customer whose
36 account remains delinquent for more than 10 days. If a delinquent customer is not the
37 owner of the premises to which the services are delivered, the payment of the delinquent
38 account may not be required before providing services at the request of a new and
39 different tenant or occupant of the premises. If water or sewer services are discontinued
40 for delinquency, it is unlawful for a person other than a duly authorized agent or
41 employee of the county to reconnect the premises to the water or sewer system.

42 (c) Rents, rates, fees, charges, and penalties for enterprisory services are in no
43 case a lien upon the property or premises served and, except as provided in subsection
44 (d) of this section, are legal obligations of the person contracting for ~~them~~-them.

1 provided that no contract shall be necessary in the case of structural and natural
2 stormwater and drainage systems.

3 (d) Rents, rates, fees, charges, and penalties for enterprisory services are legal
4 obligations of the owner of the property or premises served when:

- 5 (1) The property or premises is leased or rented to more than one tenant
6 and services rendered to more than one tenant are measured by the
7 same meter; or
8 (2) Charges made for use of a sewerage system are billed separately from
9 charges made for the use of a water distribution system."

10 Sec. 3. G.S. 162A-2(12) reads as rewritten:

11 " (12) The term 'water system' shall mean and include all plants,
12 systems, facilities or properties used or useful or having the present
13 capacity for future use in connection with the supply or distribution
14 of ~~water,~~ water or the control and drainage of stormwater runoff and
15 any integral part thereof, including but not limited to water supply
16 systems, water distribution systems, structural and natural
17 stormwater and drainage systems of all types, sources of water
18 supply including lakes, reservoirs and wells, intakes, mains, laterals,
19 aqueducts, pumping stations, standpipes, filtration plants,
20 purification plants, hydrants, meters, valves, and all necessary
21 appurtenances and equipment and all properties, rights, easements
22 and franchises relating thereto and deemed necessary or convenient
23 by the authority for the operation thereof."

24 Sec. 4. G.S. 162A-9 reads as rewritten:

25 **"§ 162A-9. Rates and charges; contracts for water or services; deposits; delinquent**
26 **charges.**

27 (a) Each authority shall fix, and may revise from time to time, reasonable rates,
28 fees and other charges for the use of and for the services furnished or to be furnished by
29 any water system or sewer system or parts thereof owned or operated by such authority.
30 Such rates, fees and charges shall not be subject to supervision or regulation by any
31 bureau, board, commission or other agency of the State or of any political subdivision.

32 Before an authority sets or revises rates, fees, or other charges for structural or
33 natural stormwater and drainage system service, the authority shall hold a public
34 hearing on the matter. At least seven days before the hearing, the authority shall publish
35 notice of the public hearing in a newspaper having general circulation in the area. An
36 authority may impose rates, fees, or other charges for stormwater and drainage system
37 service on a person even though the person has not entered into a contract to receive the
38 service.

39 ~~Such rates, fees~~ Rates, fees, and charges shall be fixed and revised so that the
40 revenues of the authority, together with any other available funds, will be sufficient at
41 all times:

- 42 (1) To pay the cost of maintaining, repairing and operating the systems
43 or parts thereof owned or operated by the authority, including
44 reserves for such purposes, and including provision for the payment

1 of principal of and interest on indebtedness of a political subdivision
2 or of political subdivisions which payment shall have been assumed
3 by the authority, and

4 (2) To pay the principal of and the interest on all bonds issued by the
5 authority under the provisions of this Article as the same shall
6 become due and payable and to provide reserves therefor.

7 Fees established as provided in this subsection shall be made applicable throughout
8 the service area. Schedules of rates, fees, charges, and penalties for providing structural
9 and natural stormwater and drainage system service may vary according to whether the
10 property served is residential, commercial, or industrial property, the property's use, the
11 size of the property, the area of impervious surfaces on the property, the quantity and
12 quality of the runoff from the property, the characteristics of the watershed into which
13 stormwater from the property drains, and other factors that affect the stormwater
14 drainage system. Rates, fees, and charges imposed under this section may not exceed
15 the authority's cost of providing a stormwater and drainage system.

16 No stormwater utility fee may be levied under this subsection whenever two or more
17 units of local government operate separate structural and natural stormwater and
18 drainage system services in the same area within a county. However, two or more units
19 of local government may allocate among themselves the functions, duties, powers, and
20 responsibilities for jointly operating a single structural and natural stormwater and
21 drainage system service in the same area within a county, provided that only one unit
22 may levy a fee pursuant to this act within the joint service area. For purposes of this
23 subsection, a unit of local government shall include a regional authority providing
24 structural and natural stormwater and drainage system services.

25 (b) Notwithstanding any of the foregoing provisions of this section, the authority
26 may enter into contracts relating to the collection, treatment or disposal of sewage or the
27 purchase or sale of water which shall not be subject to revision except in accordance
28 with their terms.

29 (c) In order to insure the payment of such rates, fees and charges as the same
30 shall become due and payable, the authority ~~may,~~ may do the following in addition to
31 exercising any other remedies which it may have:

32 (1) Require reasonable advance deposits to be made with it to be subject
33 to application to the payment of delinquent rates, fees and ~~charges,~~
34 ~~and charges.~~

35 (2) At the expiration of 30 days after any ~~such~~ rates, fees and charges
36 become delinquent, discontinue supplying water or the services and
37 facilities of any water system or sewer system of the authority.

38 (3) Specify the order in which partial payments are to be applied when a
39 bill covers more than one service."

40 Sec. 5. This act is effective upon ratification.