

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1995

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SENATE BILL 908

Short Title: Water and Sewer Authority Powers.

(Public)

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Sponsors: Senators Hartsell and Soles.

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Referred to: Finance

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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;
- 20 (4) To sue and be sued in its own name, plead and be impleaded;

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

- 1 (12) To enter into contracts with the government of the United States or any  
2 agency or instrumentality thereof, or with any political subdivision,  
3 private corporation, copartnership, association or individual providing  
4 for the acquisition, construction, reconstruction, improvement,  
5 extension, enlargement, operation or maintenance of any water system  
6 or sewer system or providing for or relating to the treatment and  
7 disposal of sewage or providing for or relating to any water system or  
8 the purchase or sale of water;
- 9 (13) To receive and accept from any federal, State or other public agency and  
10 any private agency, person or other entity, donations, loans, grants, aid  
11 or contributions of any money, property, labor or other things of value  
12 for any sewer system or water system, and to agree to apply and use the  
13 same in accordance with the terms and conditions under which the same  
14 are provided;
- 15 (14) To enter into contract with any political subdivision by which the  
16 authority shall assume the payment of the principal of and interest on  
17 indebtedness of such subdivision; and
- 18 (14a) To make special assessments against benefited property within the area  
19 served or to be served by the authority for the purpose of constructing,  
20 reconstructing, extending, or otherwise improving water systems or  
21 sanitary collection, treatment, and sewage disposal systems, in the same  
22 manner that a county may make special assessments under authority of  
23 Chapter 153A, Article 9, except that the language appearing in G.S.  
24 153A-185 reading as follows: 'A county may not assess property within  
25 a city pursuant to subdivision (1) or (2) of this section unless the  
26 governing board of the city has by resolution approved the project,' shall  
27 not apply to assessments levied by Water and Sewer Authorities  
28 established pursuant to Chapter 162A, Article 1, of the General Statutes.  
29 For the purposes of this paragraph, references in Chapter 153A, Article  
30 9, to the 'county,' the 'board of county commissioners,' 'the board' or a  
31 specific county official or employee are deemed to refer, respectively, to  
32 the authority and to the official or employee of the authority who  
33 performs most nearly the same duties performed by the specified county  
34 official or employee.
- 35 Assessment rolls after being confirmed shall be filed for registration  
36 in the office of the Register of Deeds of the county in which the  
37 property being assessed is located, and the term 'county tax collector'  
38 wherever used in G.S. 153A-195 and 153A-196, shall mean the  
39 Executive Director or other administrative officer designated by the  
40 authority to perform the functions described in said sections of the  
41 statute.
- 42 (14b) To provide for the defense of civil and criminal actions and payment of  
43 civil judgments against employees and officers or former employees and

1 officers and members or former members of the governing body as  
2 authorized by G.S. 160A-167, as amended.

3 (14c) To adopt ordinances to regulate and control the discharge of sewage or  
4 stormwater into any sewerage system owned or operated by the  
5 authority and to adopt ordinances to regulate and control structural and  
6 natural stormwater and drainage systems of all types. Prior to the  
7 adoption of any such ordinance or any amendment to any such  
8 ordinance, the authority shall first pass a declaration of intent to adopt  
9 such ordinance or amendment. The declaration of intent shall describe  
10 the ordinance which it is proposed that the authority adopt. The  
11 declaration of intent shall be submitted to each governing body for  
12 review and comment. The authority shall consider any comment or  
13 suggestions offered by any governing body with respect to the proposed  
14 ordinance or amendment. Thereafter, the authority shall be authorized to  
15 adopt such ordinance or amendment to it at any time after 60 days  
16 following the submission of the declaration of intent to each governing  
17 body.

18 (14d) To require the owners of developed property on which there are situated  
19 one or more residential dwelling units or commercial establishments  
20 located within the jurisdiction of the authority and within a reasonable  
21 distance of any waterline or sewer collection line owned, leased as  
22 lessee, or operated by the authority to connect the property with the  
23 waterline, sewer connection line, or both and fix charges for the  
24 connections; provided that (i) the power granted by this subdivision may  
25 be exercised by an authority only to the extent that the service, whether  
26 water, sewer, or a combination thereof, to be provided by the authority  
27 is not then being provided to the improved property by any other  
28 political subdivision, and (ii) in the case of improved property that  
29 would qualify for the issuance of a building permit for the construction  
30 of one or more residential dwelling units or commercial establishments  
31 and where the authority has installed water or sewer lines or a  
32 combination thereof directly available to the property, the authority may  
33 require payment of a periodic availability charge, not to exceed the  
34 minimum periodic service charge for properties that are connected.

35 (15) To do all acts and things necessary or convenient to carry out the  
36 powers granted by this Article.

37 (16) To purchase real or personal property as provided by G.S. 160A-20, in  
38 addition to any other method allowed under this Article."

39 Sec. 2. G.S. 162A-14 reads as rewritten:

40 "**§ 162A-14. Conveyances and contracts between political subdivisions and**  
41 **authority.**

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

43 (1) Pursuant to the provisions of G.S. 160A-274 and

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

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

16 a. For the collection, treatment or disposal of sewage by the  
17 authority or for the purchase of a supply of water from the  
18 authority;

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

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

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

- 1           (3) To fix, and revise from time to time, rates, fees and other charges for  
2 water and for the services furnished or to be furnished by any water  
3 system or sewer system of the authority, or parts thereof, under any  
4 contract between the authority and such political subdivision, and to  
5 pledge all or any part of the proceeds of such rates, fees and charges to  
6 the payment of any obligation of such political subdivision under such  
7 contract; and
- 8           (4) In its discretion, to submit to the qualified electors under the election  
9 laws applicable to such political subdivision any contract or agreement  
10 which such governing body is authorized to make and enter into with  
11 the authority under the provisions of this Article."

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

13 **"§ 153A-284. Power to require connections.**

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

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

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

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

42           Sec. 6. All general, special, or local laws, or parts thereof, inconsistent with  
43 the provisions of this act are declared to be inapplicable to the provisions of this act.

1           Sec. 7. This act is effective upon ratification.