

NORTH CAROLINA GENERAL ASSEMBLY
1961 SESSION

CHAPTER 1001
HOUSE BILL 745

1 AN ACT ADDING A NEW ARTICLE TO CHAPTER 153 OF THE GENERAL STATUTES
2 TO AUTHORIZE COUNTIES (SINGLY OR JOINTLY WITH MUNICIPALITIES OR
3 OTHER COUNTIES) AND MUNICIPALITIES (JOINTLY WITH COUNTIES OR
4 OTHER MUNICIPALITIES) TO ACQUIRE, LEASE, CONSTRUCT, RECONSTRUCT,
5 EXTEND, IMPROVE, MAINTAIN AND OPERATE ANY WATER SYSTEM OR
6 SANITARY SEWERAGE SYSTEM, WITHIN OR WITHOUT THE BOUNDARIES OF
7 ANY SUCH COUNTIES OR MUNICIPALITIES, AND TO ESTABLISH BY MUTUAL
8 AGREEMENT JOINT AGENCIES TO EXERCISE THE POWERS CONFERRED BY
9 SUCH ARTICLE, AND AMENDING THE COUNTY FINANCE ACT TO AUTHORIZE
10 THE ISSUANCE OF BONDS BY COUNTIES FOR THE ACQUISITION,
11 CONSTRUCTION, RECONSTRUCTION, EXTENSION AND IMPROVEMENT OF
12 WATER SYSTEMS AND SANITARY SEWERAGE SYSTEMS EITHER SINGLY OR
13 JOINTLY WITH OTHER COUNTIES OR MUNICIPALITIES.

14
15 WHEREAS, the increasing density of population and industrial growth outside of
16 municipal boundaries in North Carolina is creating greater needs for central water supplies and
17 systems for the collection and disposal of sewage; and

18 WHEREAS, the counties of North Carolina are being called upon to meet these needs for
19 water and sewerage services; and

20 WHEREAS, county governments should have authority to establish and operate water and
21 sewerage systems, fix charges and rates for the use thereof, and to contract with municipalities
22 to provide service; and

23 WHEREAS, the concentrations of populations across county boundaries and the crossing of
24 county boundaries by a single drainage basin frequently result in needs which can be more
25 economically met by joint action by one or more counties or municipalities: Now, therefore,

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27 The General Assembly of North Carolina do enact:

28
29 **Section 1.** Chapter 153 of the General Statutes of North Carolina is hereby
30 amended by adding at the end thereof a new Article to be entitled "Water and Sewerage
31 Facilities" and to read as follows:

32 **"Section 1.** The board of commissioners of any county is hereby authorized to:

33 (a) Acquire, lease as lessor or lessee, construct, reconstruct, improve, extend, enlarge,
34 equip, repair, maintain and operate any water system and any sanitary sewerage system or parts
35 thereof, either within or without the boundaries of the county, and to acquire in the name of the
36 county by gift, purchase or the exercise of the right of eminent domain, which right shall be
37 exercised in accordance with the provisions of Chapter 40, any improved or unimproved lands
38 or rights in land, and to acquire such personal property or water rights as it may deem necessary
39 in connection with the foregoing, and to hold and dispose of all real and personal property
40 under its control; and

41 (b) to make and enter into all contracts and agreements necessary or incidental to the
42 execution of the powers herein provided, including the contracting or otherwise providing for

1 the leasing, repairing, maintaining and operating of any such system or systems or parts
2 thereof.

3 **"Section 2.** The board of commissioners of any county is hereby further authorized to
4 provide water and sewerage services to any and all persons including individuals, firms,
5 partnerships, associations, public or private institutions, municipalities, political subdivisions,
6 governmental agencies, and private or public corporations organized and existing under the
7 laws of this State or any other state or county, either within or without the boundaries of the
8 county, but in no case shall the county be liable for damages for failure to furnish any such
9 services.

10 **"Section 3.** The board of commissioners of any county may fix, and may revise from time
11 to time, rents, rates, fees and charges for the use of and for the services furnished or to be
12 furnished by any such system or systems. Such rents, rates, fees and charges may vary, if
13 determined by the governing body of the county to be reasonable, for the same class of service
14 in one area of the county from those imposed in another area of the county. The rents, rates,
15 fees and charges imposed for services provided outside the boundaries of the county may vary
16 from those imposed for services provided within the boundaries of the county and may vary for
17 the same class of service provided in one area outside the county from those imposed for
18 services provided in another area outside the county.

19 **"Section 4.** Any county or municipality and any other county or counties or municipality
20 or municipalities (which municipality or municipalities need not be within such county or
21 counties) are hereby authorized, jointly to acquire, lease as lessor or lessee, construct,
22 reconstruct, improve, extend, enlarge, equip, repair, maintain and operate any water system and
23 any sanitary sewerage system or parts thereof, either within or without the boundaries of any
24 such counties or municipalities, and to acquire by gift, purchase or the exercise of the right of
25 eminent domain in accordance with the provisions of this Article or of other provisions of the
26 General Statutes of North Carolina as are applicable to the exercise of such powers, any
27 improved or unimproved lands or rights in land, and to acquire such personal property or water
28 rights as may be deemed necessary in connection with the foregoing, and to hold and dispose of
29 all real and personal property.

30 "Any such counties or municipalities may enter into such contracts or agreements with each
31 other or with any and all persons including individuals, firms, partnerships, associations, public
32 or private institutions, municipalities, political subdivisions, governmental agencies, and
33 private or public corporations organized and existing under the laws of this State or any other
34 state or county, either within or without the boundaries of any such counties or municipalities,
35 which the governing bodies of any such counties or municipalities shall deem necessary or
36 incidental to the execution jointly of the powers herein provided and which may contain, as to
37 contracts between any such counties or municipalities, provisions as to the apportionment of
38 the cost of any such system or systems and the distribution of the revenues thereof.

39 "Joint action with respect to any of the foregoing shall be taken pursuant to resolutions
40 adopted by the governing bodies of each such county or municipality. Joint action taken and the
41 contract or contracts herein authorized may provide for and may be of such duration as the
42 participating counties and municipalities may determine to be reasonable.

43 **"Section 5.** Any such counties or municipalities are hereby authorized to establish, by
44 mutual agreement, a joint agency (which may be termed a board, commission, council or such
45 other name as may be agreed upon which shall be subject to the control of the governing bodies
46 of such counties or municipalities) to be charged with the responsibility, in whole or in part, of
47 exercising the powers provided in the foregoing Section. The joint agency may continue in
48 operation for such period of time as the participating counties and municipalities may agree
49 upon. Funds may be appropriated by the governing bodies of such counties or municipalities to
50 any such joint agency to be used to carry out its responsibilities, and any such appropriations
51 shall be on the basis of an annual budget recommended by such joint agency and submitted to

1 such governing bodies for approval. The accounting for all funds of such a joint agency and the
2 disbursement of all funds thereof shall be in accordance with the terms of the agreement
3 establishing such joint agency.

4 **"Section 6.** Expenditures by counties to provide water and sewerage services under the
5 authority granted by this Article are hereby declared to be a special purpose and a necessary
6 expense, and all counties of the State shall have authority and are hereby given special approval
7 to levy special taxes and to appropriate money for all such services.

8 **"Section 7.** The powers granted to counties and municipalities by this Article shall be
9 deemed supplementary to any powers heretofore or hereafter granted by any general or local
10 act for the same or similar purposes, and in any case where the provisions of this Article
11 conflict with or are different from the provisions of any other Act, the board of commissioners
12 of the county or the municipal governing board may in its discretion proceed in accordance
13 with the provisions of this Article or, as an alternative method, in accordance with the
14 provisions of such Act.

15 **"Section 8.** The word 'authority' as contained in G.S. 162A-7 shall be deemed to include
16 counties and municipalities acting collectively or jointly under this Article and joint agencies as
17 referred to in this Article. No diversion of water by those acting collectively or jointly under
18 this Article from one stream or river to another shall be permitted nor shall proceedings in the
19 nature of eminent domain be instituted by those acting collectively or jointly under this Article
20 to acquire water, water rights, or lands having water rights attached thereto unless such
21 diversion or acquisition is first authorized by a certificate from the Board therein referred to.
22 The provisions of G.S. 162A-7(b) - (f), inclusive, shall be applicable thereto.

23 **"Section 9.** Nothing contained in this Article shall change or modify existing common or
24 Statute law with respect to the relative rights of riparian owners or others concerning the use of
25 or disposal of water in the streams of this State.

26 **"Section 10.** Diversion of water from any major river basin, the main stem of which is not
27 located entirely within North Carolina downstream from the point of such diversion is
28 prohibited, except where such diversion is now permitted by law.

29 **"Section 11.** Any riparian owner alleging injury as a result of any Act taken by any county,
30 municipality or joint agency pursuant to this Article may maintain an action for relief against
31 such Act or Acts either in the county where the lands of such riparian owner lie or in any
32 county taking such action or in which any such municipality or joint agency is located or
33 operates."

34 **Sec. 2.** Subdivisions (o) and (p) of Section 153-77 of Article 9 of Chapter 153 of
35 the General Statutes of North Carolina, the same being a part of the County Finance Act, as
36 amended, are hereby rewritten and amended to read as follows:

37 "(o) Acquisition, construction, reconstruction, extension and improvement of water
38 systems, either singly or jointly with other counties or municipalities.

39 "(p) Acquisition, construction, reconstruction, extension and improvement of sanitary
40 sewerage systems, either singly or jointly with other counties or municipalities."

41 **Sec. 3.** The provisions of this Act are severable, and if any of its provisions shall be
42 held unconstitutional by any court of competent jurisdiction, the decision of such court shall
43 not affect or impair any of the remaining provisions.

44 **Sec. 4.** This Act shall be in full force and effect from and after its ratification.

45 In the General Assembly read three times and ratified, this the 17th day of June,
46 1961.