

NORTH CAROLINA GENERAL ASSEMBLY
1969 SESSION

CHAPTER 968
SENATE BILL 834

1 AN ACT TO IMPLEMENT STATE COOPERATION IN NORTH CAROLINA FEDERAL
2 WATER RESOURCES DEVELOPMENT PROJECTS.

3
4 The General Assembly of North Carolina do enact:

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6 **Section 1.** Article 21 of Chapter 143 of the North Carolina General Statutes is hereby
7 amended by adding at the end thereof a new Part to be designated as "Part 4" and reading as
8 follows:

9 "Part 4. Federal Water Resources Development Projects.

10 **Subsection 143-215.40. Short Title.** This part shall be known as and may be cited as the
11 Federal Water Resources Development Law of 1969.

12 **Subsection 143-215.41. Public Policy.** It is hereby declared the public policy of the State of
13 North Carolina to encourage development of such river and harbor, flood control and other
14 similar civil works projects as will accrue to the general or special benefit of any county or
15 municipality of North Carolina or to any region of the State. To this end, it is also hereby
16 declared that within the meaning of the North Carolina Constitution expenditures for such
17 projects and obligations incurred for such projects are for public purposes, that county and
18 municipal and other local government expenditures and obligations incurred therefor are
19 necessary expenses, and that county expenditures therefor are for special purposes for which
20 the special approval of the General Assembly is hereby given.

21 **Subsection 143-215.42. Resolutions and ordinances assuring local cooperation.** (a) The
22 boards of commissioners of the several counties, in behalf of their respective counties, the
23 governing bodies of the several municipalities, in behalf of their respective municipalities, the
24 governing bodies of any other local government units, in behalf of their units, and the North
25 Carolina Board of Water and Air Resources, in behalf of the State of North Carolina, subject to
26 the approval of the Governor and the Advisory Budget Commission, are hereby authorized to
27 adopt such resolutions or ordinances as may be required giving assurances to any appropriate
28 agency of the United States Government for the fulfillment of the required items of local
29 cooperation as expressed in acts of Congress or congressional documents, as conditions
30 precedent to the accomplishment of river and harbor, flood control or other such civil works
31 projects, when it shall appear, and is determined by such board or governing body that any such
32 project will accrue to the general or special benefit of such county or municipality or to a
33 region of the State. In each case where the subject of such local cooperation requirements
34 comes before a board of county commissioners or the governing body of any municipality or
35 other local unit a copy of its final action, whether it be favorable or unfavorable, shall be sent to
36 the Director of the Department of Water and Air Resources for the information of the
37 Governor.

38 (b) Within the meaning of this part, a "local government unit" means any local
39 subdivision or unit of government or local public corporate entity (other than a county or
40 municipality), including any manner of special district or public authority.

41 **Subsection 143-215.43. Items of cooperation to which localities and the State, acting**
42 **through the Board of Water and Air Resources, may bind themselves.** Such resolutions and
43 ordinances may irrevocably bind such county, municipality, other local unit, of the State of

North Carolina, acting through the Board of Water and Air Resources, to the following when included as requirements of local cooperation for a Federal water resources development project.

- (1) To provide, without cost to the United States, all lands, easements, and rights-of-way required for construction and subsequent maintenance of the project and for aids to navigation, if required, upon the request of the Chief of Engineers, or other official to be required in the general public interest for initial and subsequent disposal of spoil, and also necessary retaining dikes, bulkheads, and embankments therefor, or the costs of such retaining works.
- (2) To hold and save the United States free from damages due to the construction works and subsequent maintenance of the project.
- (3) To provide firm assurances that riverside terminal and transfer facilities will be constructed at the upper limit of the modified project to permit transfer of commodities from or to plants and barges.
- (4) To provide and maintain, without cost to the United States, depths in berthing areas and local access channels serving the terminals commensurate with depths provided in related project areas.
- (5) To accomplish, without cost to the United States, such alterations, if any, as required in sewer, water-supply, drainage, electrical power lines, and other utility facilities, as well as their maintenance.
- (6) To provide, without cost to the United States, all lands, easements, rights-of-way, utility relocations and alterations, and, with the concurrence and under the direction of the State Highway Commission, highway or highway bridge construction and alterations necessary for project construction.
- (7) To adjust all claims concerning water rights.
- (8) To maintain and operate the project after completion, without cost to the United States, in accordance with regulations prescribed by the Secretary of the Army or other responsible Federal official, board, or agency.
- (9) To provide a cash contribution for project costs assigned to project features other than flood control.
- (10) To prevent future encroachment which might interfere with proper functioning of the project for flood control.
- (11) To provide or satisfy any other items or conditions of local cooperation as stipulated in the congressional or other Federal document covering the particular project involved.

This Section shall not be interpreted as limiting but as descriptive of the items of local cooperation, the accomplishment of which counties, municipalities and the State are herein authorized to irrevocably bind themselves; it being intended to authorize counties, municipalities and the Board of Water and Air Resources in behalf of the State to comply fully and completely with all of the items of local cooperation as contemplated by Congress and as stipulated in the congressional acts or documents concerned, or project reports by the Army Chief of Engineers, the Administrator of the Soil Conservation Service, the Board of Directors of the Tennessee Valley Authority, or other responsible Federal official, board or agency.

Subsection 143-215.43. Acquisition of lands. (a) For the purpose of complying with the terms of local cooperation as specified in Chapter 143, Article 21, Part 4, and as stipulated in the Congressional document covering the particular project involved, any county, municipality, or other local government unit may acquire the necessary lands, or interest in lands, by lease, purchase, gift or condemnation. A municipality, county or other local government unit may acquire such lands by any of the aforesaid means outside as well as inside its territorial

boundaries, if the local governing body finds that substantial benefits will accrue to property inside such territorial boundaries as a result of such acquisition.

(b) The power of condemnation herein granted may be exercised only after:

(1) The municipality, county or other local unit makes application to the Board of Water and Air Resources, identifying the land sought to be condemned and stating the purposes for which said land is needed; and

(2) The Board of Water and Air Resources finds that the land is sought to be acquired for a proper purpose within the intent of Chapter 143, Article 21, Part 4. The findings of the Board of Water and Air Resources will be conclusive in the absence of fraud, notwithstanding any other provision of law.

(c) The Board of Water and Air Resources shall certify copies of its findings to the applicant municipality, county, or other local unit, and to the Clerk of Superior Court of the county or counties wherein any of the land sought to be condemned lies for recordation in the special proceedings thereof.

(d) For purposes of this Section:

(1) The term 'interest in land' means any land, right-of-way, rights of access, privilege, easement, or other interest in or relating to land. Said 'interest in land' does not include an interest in land which is held or used in whole or in part for a public water supply, unless such interest in land is not necessary or essential for such uses or purposes.

(2) A 'description' of land shall be sufficient if the boundaries of the land are described in such a way as to convey an intelligent understanding of the location of the land. In the discretion of the applicant, boundaries may be described by any of the following methods or by any combination thereof: by reference to a map; by metes and bounds; by general description referring to natural boundaries, or to boundaries of existing political subdivisions or municipalities, or to boundaries of particular tracts or parcels of land.

(e) The procedure in all condemnation proceedings pursuant to this Section shall conform as nearly as possible to the procedure provided in G.S. Chapter 40, Article 2, and all acts amendatory thereof.

(f) Interests in land acquired pursuant to this Section may be used in such manner and for such purposes as the local governing body deems best. If, in the opinion of the local governing body, such lands should be sold, leased or rented, this may be done, subject to the approval of the Board of Water and Air Resources.

(g) This Section is intended to confer supplementary and additional authority, and not to confer exclusive authority nor to impose cumulative requirements. If a municipality, county or other local government unit is authorized to acquire lands or interests in lands by some other law (such as by General Statutes Chapter 139, 153, 160, or 162A) as well as by this Section, compliance with the requirements of this Section or the requirements of such other law will be sufficient.

(h) This Section shall not authorize acquisition by condemnation of interests in land within the boundaries of any project to be constructed by the Tennessee Valley Authority, its agents or sub-division or any project licensed by the Federal Power Commission or interests in land owned or held for use by a public utility, as defined in G.S. 62-3. No Commission created pursuant to G.S. 158-8 shall condemn or acquire any property to be used by the Tennessee Valley Authority, its agents or sub-division.

Subsection 143-215.44. Additional powers. For the purpose of complying with requirements of local cooperation as described in this Part, county and municipal governing bodies shall also have the power to accept funds, and to use general tax funds for necessary project purposes, including project maintenance.

- 1 **Sec. 2.** All laws and clauses of laws in conflict with this Act are hereby repealed.
2 **Sec. 3.** This Act shall be in full force and effect from and after its ratification.
3 In the General Assembly read three times and ratified, this the 20th day of June,
4 1969.