

**GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2015**

**SESSION LAW 2015-3  
SENATE BILL 305**

AN ACT TO PROVIDE COST RECOVERY FOR ACQUISITION OF JOINT MUNICIPAL POWER AGENCY OWNERSHIP INTEREST IN GENERATING FACILITIES, TO AUTHORIZE MUNICIPALITIES THAT ARE MEMBERS OF JOINT MUNICIPAL POWER AGENCIES TO ENTER INTO SUPPORT CONTRACTS, AND TO ISSUE BONDS TO PAY THE COSTS OF PROJECTS THAT ARE SOLD.

The General Assembly of North Carolina enacts:

**SECTION 1.** Article 7 of Chapter 62 of the General Statutes is amended by adding a new section to read:

**"§ 62-133.14. Cost recovery for acquisition of joint municipal power agency ownership interest in generating facilities.**

(a) The Commission shall, upon the petition of an electric public utility and after hearing, approve an annual rider to the electric public utility's rates to recover the North Carolina retail portion of all reasonable and prudent costs incurred to acquire, operate, and maintain the proportional interest in electric generating facilities purchased from a joint agency established under Chapter 159B of the General Statutes. For the purposes of this section, "acquisition costs" means the amount paid by an electric public utility on or before December 31, 2016, to acquire the generating facilities, including the amount paid above the net book value of the generating facilities. The Commission shall adopt rules to implement the provisions of this section.

(b) In determining the amount of the rider, the Commission shall:

- (1) Allow an electric public utility to recover acquisition costs, as reasonable and prudent costs. For the benefit of the consumer, the acquisition costs shall be levelized over the useful life of the assets at the time of acquisition.
- (2) Include financing costs equal to the weighted average cost of capital as authorized by the Commission in the electric public utility's most recent general rate case.
- (3) Include an estimate of operating costs based on prior year's experience and the costs projected for the next 12-month period for any proportional capital investments in the acquired electric generating facilities.
- (4) Include adjustments to reflect the North Carolina retail portion of financing and operating costs related to the electric public utility's other used and useful generating facilities owned at the time of the acquisition to properly account for updated jurisdictional allocation factors.
- (5) Utilize the customer allocation methodology approved by the Commission in the electric public utility's most recent general rate case.

(c) The Commission shall require that an electric public utility file the following proposed annual adjustments to the rider:

- (1) Any under-recovery or over-recovery resulting from the operation of the rider.
- (2) Any changes necessary to recover costs as forecast for the next 12-month period.
- (3) Any changes to cost of capital determined in any general rate proceeding occurring after the initial establishment of the rider, where the cost of capital applies to both the remaining acquisition costs and additional capital investment in the electric generating facilities.



(4) Any changes to the customer allocation methodology determined in any general rate proceeding occurring after the initial establishment of the rider.

(d) Any rider established under this section will expire after the end of the useful life of the acquired electric generating facilities at the time of acquisition, with any remaining unrecovered costs deferred until the electric public utility's next general rate proceeding under G.S. 62-133."

**SECTION 2.** G.S. 159B-2 reads as rewritten:

**"§ 159B-2. Legislative findings and purposes.**

The General Assembly hereby finds and determines that:

A critical situation exists with respect to the present and future supply of electric power and energy in the State of North Carolina;

The public utilities operating in the State have sustained greatly increased capital and operating costs;

Such public utilities have found it necessary to postpone or curtail construction of planned generation and transmission facilities serving the consumers of electricity in the State, increasing the ultimate cost of such facilities to the public utilities, and that such postponements and curtailments will have an adverse effect on the provision of adequate and reliable electric service in the State;

The above conditions have occurred despite substantial increases in electric rates;

In the absence of further material increases in electric rates, additional postponements and curtailments in the construction of additional generation and transmission facilities may occur, thereby impairing those utilities' ability to continue to provide an adequate and reliable source of electric power and energy in the State;

Seventy-two municipalities in the State have for many years owned and operated systems for the distribution of electric power and energy to customers in their respective service areas and are empowered severally to engage in the generation and transmission of electric power and energy;

Such municipalities owning electric distribution systems have an obligation to provide their inhabitants and customers an adequate, reliable and economical source of electric power and energy in the future;

In order to achieve the economies and efficiencies made possible by the proper planning, financing, sizing and location of facilities for the generation and transmission of electric power and energy which are not practical for any municipality acting alone, and to insure an adequate, reliable and economical supply of electric power and energy to the people of the State, it is desirable for the State of North Carolina to authorize municipal electric systems to jointly plan, finance, develop, own and operate electric generation and transmission facilities appropriate to their needs in order to provide for their present and future power requirements for all uses without supplanting or displacing the service at retail of other electric suppliers operating in the State; and

The joint planning, financing, development, ownership and operation of electric generation and transmission facilities by municipalities which own electric distribution systems and the issuance of revenue bonds for such purposes as provided in this Chapter is for a public use and for public and municipal purposes and is a means of achieving economies, adequacy and reliability in the generation of electric power and energy and in the meeting of future needs of the State and its inhabitants.

Municipal electric systems that have jointly planned, developed, acquired, owned, and financed electric generation and transmission facilities through joint agencies in furtherance of the purposes of this Chapter also may benefit from obtaining their power and energy requirements from replacement resources, the disposition of facilities owned by joint agencies, and the issuance by joint agencies of bonds to refinance the outstanding debt incurred with respect to facilities to the extent outstanding debt cannot be completely defeased in connection with the disposition of the facilities, and it is desirable for the State of North Carolina to facilitate the foregoing. Refinancing debt, and financing any collateral posting requirements incident to replacement power and energy resources that may be acquired, by the issuance of revenue bonds secured by payments by municipal electric systems, is for a public use and for a public and municipal purpose and is an alternative means, together with the disposition of the jointly owned facilities and acquisition of replacement sources of power and energy, of achieving economies, adequacy and reliability of electric power and energy supply, and in meeting the future needs of the State and its inhabitants.

In addition to the authority granted municipalities to jointly plan, finance, develop, own and operate electric generation and transmission facilities by Article 2 of this Chapter and the other powers granted in said Article 2, and in addition and supplemental to powers otherwise conferred on municipalities by the laws of this State for interlocal cooperation, it is desirable for the State of North Carolina to authorize municipalities and joint agencies to form joint municipal assistance agencies which shall be empowered to provide aid and assistance to municipalities in the construction, ownership, maintenance, expansion and operation of their electric systems, and to empower joint agencies authorized herein to provide aid and assistance to municipalities or joint municipal assistance agencies in the development and implementation of integrated resource planning, including, but not limited to, the evaluation of resources, generating facilities, alternative energy resources, conservation and load management programs, transmission and distribution facilities, and purchase power options, and in the development, construction and operation of supply-side and demand-side resources, in addition to exercising such other powers as hereinafter provided to joint municipal assistance agencies and joint agencies. In order to provide maximum economies and efficiencies to municipalities and the consuming public in the generation and transmission of electric power and energy contemplated by Article 2 of this Chapter, it is also desirable that the joint municipal assistance agencies authorized herein be empowered to act as provided in Article 3 of this Chapter and that such agency or agencies be empowered to act for and on behalf of any one or more municipalities or joint agencies, as requested, with respect to the construction, ownership, maintenance, expansion and operation of their electric systems; and that the joint agencies authorized herein be empowered to act as provided in Article 2 of this Chapter and that such joint agencies be empowered to act for and on behalf of any one or more municipalities or joint municipal assistance agencies, in each case as requested, with respect to the integrated resource planning and development, construction, and operation of supply-side and demand-side options described above."

**SECTION 3.** G.S. 159B-11 reads as rewritten:

**"§ 159B-11. General powers of joint agencies; prerequisites to undertaking projects.**

(a) Each joint agency shall have all of the rights and powers necessary or convenient to carry out and effectuate the purposes and provisions of this Chapter, including, but without limiting the generality of the foregoing, the rights and powers:

- (1) To adopt bylaws for the regulation of the affairs and the conduct of its business, and to prescribe rules, regulations and policies in connection with the performance of its functions and ~~duties;~~duties.
- (2) To adopt an official seal and alter the same at ~~pleasure;~~pleasure.
- (3) To acquire and maintain an administrative office building or office at such place or places as it may determine, which building or office may be used or owned alone or together with any other joint agency or agencies, joint municipal assistance agency, municipalities, corporations, associations or persons under such terms and provisions for sharing costs and otherwise as may be ~~determined;~~determined.
- (4) To sue and be sued in its own name, and to plead and be ~~impleaded;~~impleaded.
- (5) To receive, administer and comply with the conditions and requirements respecting any gift, grant or donation of any property or ~~money;~~money.
- (6) To acquire by purchase, lease, gift, or otherwise, or to obtain options for the acquisition of, any property, real or personal, improved or unimproved, including an interest in land less than the fee ~~thereof;~~thereof.
- (7) To sell, lease, exchange, transfer or otherwise dispose of, or to grant options for any such purposes with respect to, any real or personal property or interest ~~therein;~~therein.
- (8) To pledge, assign, mortgage or otherwise grant a security interest in any real or personal property or interest therein, including the right and power to pledge, assign or otherwise grant a security interest in any money, rents, charges or other revenues and any proceeds derived by the joint agency from the sales of property, insurance or condemnation ~~awards;~~awards.
- (9) To issue bonds of the joint agency for the purpose of providing funds for any of its corporate ~~purposes;~~purposes.

- (10) To study, plan, finance, construct, reconstruct, acquire, improve, enlarge, extend, better, own, operate and maintain one or more projects, either individually or jointly with one or more municipalities in this State or any state contiguous to this State owning electric distribution facilities or with any political subdivisions, agencies or instrumentalities of any state contiguous to this State or with other joint agencies created pursuant to this Chapter, and to pay all or any part of the costs thereof from the proceeds of bonds of the joint agency or from any other available funds of the joint agency; no provisions of law with respect to the acquisition, construction, or operation of property by other public bodies shall be applicable to any project as defined in this Chapter and as authorized by this subdivision unless the General Assembly shall specifically so ~~state;~~state.
- (11) To authorize the construction, operation or maintenance of any project or projects by any person, firm, association, or corporation, public or ~~private;~~private.
- (12) To acquire by private negotiated purchase or lease or otherwise an existing project, a project under construction, or other property, either individually or jointly, with one or more municipalities or joint agencies in this State or any state contiguous to this State owning electric distribution facilities or with any political subdivisions, agencies or instrumentalities of any state contiguous to this State or with other joint agencies created pursuant to this Chapter; to acquire by private negotiated purchase or lease or otherwise any facilities for the development, production, manufacture, procurement, handling, storage, fabrication, enrichment, processing or reprocessing of fuel of any kind or any facility or rights with respect to the supply of water, and to enter into agreements by private negotiation or otherwise, for a period not exceeding fifty (50) years, for the development, production, manufacture, procurement, handling, storage, fabrication, enrichment, processing or reprocessing of fuel of any kind or any facility or rights with respect to the supply of water; no provisions of law with respect to the acquisition, construction or operation of property by other public bodies shall be applicable to any agency created pursuant to this Chapter unless the legislature shall specifically so ~~state;~~state.
- (13) To dispose of by private negotiated sale or lease, or otherwise, an existing project or a project under construction, or to dispose of by private negotiated sale or lease, or otherwise any facilities for the development, production, manufacture, procurement, handling, storage, fabrication, enrichment, processing or reprocessing of fuel of any kind or any facility or rights with respect to the supply of water; no provisions of law with respect to the disposition of property by other public bodies shall be applicable to an agency created pursuant to this Chapter unless the legislature shall specifically so ~~state;~~state.
- (14) To fix, charge and collect rents, rates, fees and charges for electric power or energy and other services, facilities and commodities sold, furnished or supplied through any project or activity permitted in this ~~Chapter;~~Chapter.
- (14a) To fix, charge, and collect payments pursuant to support contracts authorized by G.S. 159B-12(b).
- (15) To generate, produce, transmit, deliver, exchange, purchase, sell for resale only, electric power or energy, and to enter into contracts for any or all such ~~purposes;~~purposes.
- (16) To negotiate and enter into contracts for the purchase, sale for resale only, exchange, interchange, wheeling, pooling, transmission or use of electric power and energy with any person, firm, association, or corporation, public or ~~private;~~private.
- (17) To make and execute contracts and other instruments necessary or convenient in the exercise of the powers and functions of the joint agency under this Chapter, including contracts with persons, firms, associations, or corporations, public or ~~private;~~private.

- (18) To apply to the appropriate agencies of the State, the United States or any state thereof, and to any other proper agency, for such permits, licenses, certificates or approvals as may be necessary, and to construct, maintain and operate projects and undertake other activities permitted in this Chapter in accordance with such licenses, permits, certificates or approvals, and to obtain, hold and use such licenses, permits, certificates and approvals in the same manner as any other person or operating unit of any other ~~person;~~person.
- (19) To employ engineers, architects, attorneys, real estate counselors, appraisers, financial advisors and such other consultants and employees as may be required in the judgment of the joint agency and to fix and pay their compensation from funds available to the joint agency therefor and to select and retain subject to approval of the Local Government Commission the financial consultants, underwriters and bond attorneys to be associated with the issuance of any bonds and to pay for services rendered by underwriters, financial consultants or bond attorneys out of the proceeds of any such issue with regard to which the services were ~~performed;~~performed.
- (19a) To purchase power and energy, and services and facilities relating to the utilization of power and energy, from any source on behalf of its members and other customers and to furnish, sell, lease, exchange, transfer, or otherwise dispose of, or to grant options for any such purposes with respect to the same, to its members and other customers in such amounts, with such characteristics, for such periods of time and under such terms and conditions as the governing board of the joint agency shall ~~determine;~~determine.
- (19b) To provide aid and assistance to municipalities, and to act for or on behalf of any municipality, in any activity related to the development and implementation of integrated resource planning, including, but not limited to, the evaluation of resources, generating facilities, alternative energy resources, conservation and load management programs, transmission and distribution facilities, and purchased power options, and related to the development, construction and operation of supply-side and demand-side resources, and to do such other acts and things as provided in Article 3 of this Chapter as if the joint agency were a joint municipal assistance agency, and to carry out the powers granted in this Chapter in relation thereto; to provide aid and assistance to any joint municipal assistance agency in the exercise of its respective powers and ~~functions;~~and functions.
- (20) To do all acts and things necessary, convenient or desirable to carry out the purposes, and to exercise the powers granted to the joint agency in this Chapter.

(b) No joint agency shall undertake any project required to be financed, in whole or in part, with the proceeds of bonds without the approval of a majority of its members. Before undertaking any project, a joint agency shall, based upon engineering studies and reports, determine that such project is required to provide for the projected needs for power and energy of its members from and after the date the project is estimated to be placed in normal and continuous operation and for a reasonable period of time thereafter. Prior to or simultaneously with granting a certificate of public convenience and necessity for any such generation project the North Carolina Utilities Commission, in a proceeding instituted pursuant to G.S. 159B-24 of this Chapter, shall approve such determination. In determining the future power requirements of the members of a joint agency, there shall be taken into account the following:

- (1) The economies and efficiencies to be achieved in constructing on a large scale facilities for the generation of electric power and energy;
- (2) Needs of the joint agency for reserve and peaking capacity and to meet obligations under pooling and reserve-sharing agreements reasonably related to its needs for power and energy to which the joint agency is or may become a party;
- (3) The estimated useful life of such project;
- (4) The estimated time necessary for the planning, development, acquisition, or construction of such project and the length of time required in advance to

obtain, acquire or construct additional power supply for the members of the joint agency;

- (5) The reliability and availability of existing alternative power supply sources and the cost of such existing alternative power supply sources.

A determination by the joint agency approved by the North Carolina Utilities Commission based upon appropriate findings of the foregoing matters shall be conclusive as to the appropriateness of a project to provide the needs of the members of a joint agency for power and energy unless a party to the proceeding aggrieved by the determination of said Commission shall file notice of appeal pursuant to Article 5 of Chapter 62 of the General Statutes of North Carolina.

Nothing herein contained shall prevent a joint agency from undertaking studies to determine whether there is a need for a project or whether such project is feasible."

**SECTION 4.** G.S. 159B-12 reads as rewritten:

**"§ 159B-12. Sale of capacity and output by a joint agency; support contracts; other contracts with a joint agency.**

(a) Any municipality which is a member of the joint agency may contract to buy from the joint agency power and energy for its present or future requirements, including the capacity and output of one or more specified projects. As the creation of a joint agency is an alternative method whereby a municipality may obtain the benefits and assume the responsibilities of ownership in a project, any such contract may provide that the municipality so contracting shall be obligated to make the payments required by the contract whether or not a project is completed, operable or operating and notwithstanding the suspension, interruption, interference, reduction or curtailment of the output of a project or the power and energy contracted for, and that such payments under the contract shall not be subject to any reduction, whether by offset or otherwise, and shall not be conditioned upon the performance or nonperformance of the joint agency or any other member of the joint agency under the contract or any other instrument. Any contract with respect to the sale or purchase of capacity or output of a project entered into between a joint agency and its member municipalities may also provide that if one or more of such municipalities shall default in the payment of its or their obligations with respect to the purchase of said capacity or output, then in that event the remaining member municipalities which are purchasing capacity and output under the contract shall be required to accept and pay for and shall be entitled proportionately to and may use or otherwise dispose of the capacity or output which was to be purchased by the defaulting municipality. Notwithstanding the provisions of any other law to the contrary, any such contract with respect to the sale or purchase of capacity, output, power, or energy from a project may extend for a period not exceeding 50 years from the date a project is estimated to be placed in normal continuous operation.

(b) If any municipality which is a member of the joint agency has contracted to buy from the joint agency the capacity and output of one or more specified projects as contemplated by and containing characteristics authorized by subsection (a) of this section, and if the joint agency has acquired one or more projects and financed the acquisition of any project by issuing bonds pursuant to the provisions of this Chapter, and if the joint agency sells or otherwise disposes of any project, and if the proceeds of the sale or other disposition of any project, together with other moneys available to the joint agency for the purpose of paying the bonds, are not sufficient to pay or provide for the payment of the principal of, premium, if any, and interest on all of such bonds issued to finance the acquisition of the existing project or projects, the municipality may enter into a support contract with the joint agency to pay a proportionate share of the principal of, premium, if any, and interest on bonds issued by the joint agency to (i) refinance the bonds issued to finance the acquisition of any existing project being sold or otherwise disposed of that are not defeased from other sources, (ii) finance any collateral posting requirements of replacement power supply arrangements entered into by the joint agency, and (iii) finance any required reserves and other costs associated with the support contracts and the issuance of the bonds authorized by G.S. 159B-14.

As a support contract authorized by this subsection is a replacement for and in lieu of the payment obligations authorized by subsection (a) of this section related to an existing project or projects, any support contract may provide that the contracting municipality is obligated to make the payments required by the support contract unconditionally and without offset, counterclaim, or otherwise, and notwithstanding the performance or nonperformance of the joint agency under the support contract, or of any other municipality entering into a similar

support contract with the joint agency, or the delivery of or failure to deliver power or energy or the performance or nonperformance by any party under any related power supply contract. Any support contract entered into between a joint agency and its member municipalities may also provide that if any municipality defaults in the payment of its obligations under the support contract, the remaining member municipalities subject to the contract are required to pay a proportionate share of the defaulted payments.

Notwithstanding the provisions of any other law to the contrary, the obligations of the municipality under a support contract may extend for a period of 30 years, except for accrued obligations as of the expiration of the period for which the contract may be continued until the accrued obligations are fully satisfied, and, with respect to administrative costs only, for a reasonable period of time thereafter.

Obligations under a support contract shall not be taken into account in computing any debt or other limitation that may be imposed by law. Being on account of the refinancing of obligations incurred in connection with the acquisition of a project or projects, the obligations of the municipality under any support contract shall constitute an operating expense of its municipal electric system for all purposes of G.S. 159-47 and other purposes, save only as may have been duly contracted with bondholders of the municipality.

(c) Any municipality may contract with a joint agency, or may contract indirectly with a joint agency through a joint municipal assistance agency, to implement the provisions of G.S. 159B-11(19a) and (19b). Notwithstanding the provisions of any law to the contrary, including, but not limited to, the provisions of G.S. 159B-44(13), any contract between a joint agency and a municipality or a joint municipal assistance agency (or between a municipality and a joint municipal assistance agency) to implement the provisions of G.S. 159B-11(19b) may extend for a period not exceeding 30 years; provided, that any such contract in respect of a capital project to be used by or for the benefit of a municipality shall be subject to the prior approval of the Local Government Commission of North Carolina. In reviewing any such contract for approval, said Local Government Commission shall consider the municipality's debt management procedures and policies, whether the municipality is in default with respect to its debt service obligations and such other matters as said Local Government Commission may believe to have a bearing on whether the contract should be approved.

(d) Notwithstanding the provisions of any law to the contrary, the execution and effectiveness of any contracts authorized by this section shall not be subject to any authorizations or approvals by the State or any agency, commission or instrumentality or political subdivision thereof except as in this Chapter specifically required and provided.

Payments by a municipality under any contract authorized by this section shall be made solely from the revenues derived from the ownership and operation of the electric system of said municipality and any obligation under such contract shall not constitute a legal or equitable pledge, charge, lien, or encumbrance upon any property of the municipality or upon any of its income, receipts, or revenues, except the revenues of its electric system, and neither the faith and credit nor the taxing power of the municipality are, or may be, pledged for the payment of any obligation under any such contract. A municipality or joint agency, pursuant to an agreement with a municipality, shall be obligated to fix, charge and collect rents, rates, fees and charges for electric power and energy and other services, activities permitted in this Chapter, facilities and commodities sold, furnished or supplied through the electric system of the municipality sufficient to provide revenues adequate to meet its obligations under any such contract and to pay any and all other amounts payable from or constituting a charge and lien upon such revenues, including amounts sufficient to pay the principal of and interest on general obligation bonds heretofore or hereafter issued by the municipality for purposes related to its electric system and payments pursuant to support contracts authorized by subsection (b) of this section. The willful or negligent failure by any municipality to comply with the obligations applicable to it shall constitute a failure or refusal to comply with the provisions of this Chapter for purposes of G.S. 159-181(c), and the financial powers of the governing board of the municipality that may be vested in the Local Government Commission pursuant to G.S. 159-181(c) shall include those powers incident to carrying out the requirements and obligations specified in this section.

Payments by any joint municipal assistance agency to any joint agency under any contract or contracts authorized by this section, shall be made solely from the sources specified in such contract or contracts and no other, and any obligation under such contract shall not constitute a legal or equitable pledge, charge, lien, or encumbrance upon any property of the joint

municipal assistance agency or upon any of its income, receipts, or revenues, or upon any property of any municipality with which the joint agency or joint municipal assistance agency contracts or upon any of such municipality's income, receipts, or revenues in each case except such sources so specified. A joint municipal assistance agency shall be obligated to fix, charge and collect rents, rates, fees, and charges for providing aid and assistance sufficient to provide revenues adequate to meet its obligations under such contract.

Any municipality which is a member of a joint agency may furnish the joint agency with money derived solely from the ownership and operation of its electric system or facilities and provide the joint agency with personnel, equipment and property, both real and personal. Any municipality may also provide any services to a joint agency.

Any member of a joint agency may contract for, advance or contribute funds derived solely from the ownership and operation of its electric system or facilities to a joint agency as may be agreed upon by the joint agency and the member, and the joint agency shall repay such advances or contributions from proceeds of bonds, from operating revenues or from any other funds of the joint agency, together with interest thereon as may be agreed upon by the member and the joint agency."

**SECTION 5.** G.S. 159B-14 reads as rewritten:

**"§ 159B-14. Bonds of a joint agency.**

(a) A joint agency may issue bonds for the purpose of paying the cost of a project and secure both the principal of and interest on the bonds by a pledge of part or all of the revenues derived or to be derived from all or any of its projects, and any additions and betterments thereto or extensions thereof, or from the sale of power and energy and services and facilities related to the utilization of power and energy, or from other activities or facilities permitted in this Chapter, or from contributions or advances from its members. A joint agency may issue bonds that are not for the purpose of paying the cost of a project and secure the bonds solely by a pledge of revenues, solely by a security interest in real or personal property, or by both a pledge of revenues and a security interest in real or personal property. Bonds of a joint agency shall be authorized by a resolution adopted by its governing board and spread upon its minutes.

(b) A joint agency may issue bonds for the purpose of refinancing bonds issued for the purpose of paying the cost of a project, including, but not limited to, paying or providing for the payment of the principal of, premium, if any, and interest on bonds theretofore issued by a joint agency for the purpose of paying the cost of a project which is being sold or otherwise disposed of by the joint agency in whole or in part, and for the purpose of financing any collateral posting requirements of replacement power supply arrangements, and secure the principal of, premium, if any, and interest on the bonds by a pledge of part or all of the revenues derived or to be derived from all or any of its projects, and any additions and betterments thereto or extensions thereof, or from the sale of power and energy and services and facilities related to the utilization of power and energy, or from other activities or facilities permitted in this Chapter, or by a pledge of payments derived from support contracts authorized by G.S. 159B-12, or from contributions or advances from its members. Bonds of a joint agency shall be authorized by a resolution adopted by its governing board and spread upon its minutes."

**SECTION 6.** G.S. 159B-16(1) reads as rewritten:

"(1) The pledge of all or any part of the revenues derived or to be derived from the project or projects to be financed by the bonds, or from the sale or other disposition of power and energy and services and facilities related to the utilization of power and energy, or from other services or activities permitted in this Chapter, or from payments derived from support contracts authorized by G.S. 159B-12, or from contributions and advances from members of a joint agency, or from the electric system or other facilities of a municipality or a joint agency."

**SECTION 7.** G.S. 159B-16.1 reads as rewritten:

**"§ 159B-16.1. Revenues – NCEMPA members.**

(a) A municipality is hereby authorized to fix, charge and collect rents, rates, fees and charges for electric power and energy and other services, facilities and commodities sold, furnished or supplied through the facilities of its electric system or its interest in any joint project. Before it revises its rates, fees or charges as authorized under this subsection, a municipality shall hold a public hearing on the matter. A notice of the hearing shall be published at least once a week for two successive weeks in a newspaper having general



circulation in the municipality. The notice shall state that the public hearing will be held in connection with the municipality's action to revise its rates, fees, or charges authorized in this section and state the amount of the proposed revision. At the hearing, any retail electric customer of the municipality may appear and be heard on the proposed revision to the rates, fees, or charges. The provisions of G.S. 160A-81 shall apply to any public hearing held under this subsection. The provisions of this subsection relating to a public hearing shall not apply to action required to be taken for a municipality by the Local Government Commission, in accordance with G.S. 159-181(c), or to action required to be taken by a municipality to revise its rates, fees or charges authorized in this subsection if the revision is required to be implemented immediately as a result of a catastrophic event or to avoid impairing the ability of the municipality to comply with applicable law or its contractual obligations relating to its outstanding bonds or other indebtedness. For so long as any bonds of a municipality ~~are outstanding or amounts payable or to become payable by a municipality to a joint agency are and unpaid, or the payment of which is not fully provided for,~~ the rents, rates, fees and charges shall be so fixed as to provide revenues sufficient to pay all costs of and charges and expenses in connection with the proper operation and maintenance of its electric system, and its interest in any joint project, and all necessary repairs, replacements or renewals thereof, to pay when due the principal of, premium, if any, and interest on all bonds and other evidences of indebtedness payable from said revenues, to create and maintain reserves as may be required by any resolution or trust agreement authorizing and securing bonds, to pay when due the principal of, premium, if any, and interest on all general obligation bonds heretofore or hereafter issued to finance additions, improvements and betterments to its electric system, and to pay any and all amounts which the municipality may be obligated to pay from said revenues by law or ~~contract.~~ contract, including, but not limited to, a support contract authorized by G.S. 159B-12.

(b) A joint agency is hereby authorized to fix, charge, and collect rents, rates, fees and charges for electric power and energy and other services, facilities and commodities sold, furnished or supplied through the facilities of its projects or otherwise as authorized by this Chapter. A joint agency may only take action to change the rates, fees, or charges authorized in this subsection in a public meeting. Notice of the public meeting shall be given to each municipality that is a member of the joint agency. A notice of the meeting shall be published at least once a week for two successive weeks in a newspaper having general circulation in each municipality that is a member of the joint agency. The notice shall state that the public meeting will be held in connection with the joint agency's action to revise its rates, fees, or charges authorized in this subsection and state the amount of the proposed revision. The provisions of this subsection relating to publication of a notice shall not apply to action required to be taken by a joint agency to revise its rates, fees or charges authorized in this subsection if the revision is required to be implemented immediately as a result of a catastrophic event or to avoid impairing the ability of the joint agency to comply with applicable law or its contractual obligations relating to its outstanding bonds or other indebtedness. For so long as any bonds of a joint agency are outstanding and unpaid, the rents, rates, fees and charges shall be so fixed as to provide revenues sufficient to pay all costs of and charges and expenses in connection with the proper operation and maintenance of its projects, and all necessary repairs, replacements or renewals thereof, to pay when due the principal of, premium, if any, and interest on all bonds and other evidences of indebtedness payable from said revenues, to create and maintain reserves as may be required by any resolution or trust agreement authorizing and securing bonds, and to pay any and all amounts which the joint agency may be obligated to pay from said revenues by law or contract.

(c) Any pledge of revenues, ~~securities~~ securities, payments derived by support contracts authorized by G.S. 159B-12, or other moneys made by a municipality, joint agency or joint municipal assistance agency pursuant to this Chapter shall be valid and binding from the date the pledge is made. The revenues, securities, support contract payments, and other moneys so pledged and then held or thereafter received by the municipality, joint agency or joint municipal assistance agency or any fiduciary or other depository shall immediately be subject to the lien of the pledge without any physical delivery thereof or further act, and the lien of the pledge shall be valid and binding as against all parties having claims of any kind in tort, contract, or otherwise against the municipality, joint agency or joint municipal assistance agency without regard to whether such parties have notice thereof. The resolution or trust agreement or any financing statement, continuation statement or other instrument by which a

pledge of revenues, securities or other moneys is created need not be filed or recorded in any manner.

(d) This section applies only to all rates, fees, or charges for electric service provided by the North Carolina Eastern Municipal Power Agency (NCEMPA) or a member city or town of the NCEMPA on or after October 1, 2012. The following cities and towns are members of the North Carolina Eastern Municipal Power Agency: Apex, Ayden, Belhaven, Benson, Clayton, Edenton, Elizabeth City, Farmville, Fremont, Greenville, Hamilton, Hertford, Hobgood, Hookerton, Kinston, LaGrange, Laurinburg, Louisburg, Lumberton, New Bern, Pikeville, Red Springs, Robersonville, Rocky Mount, Scotland Neck, Selma, Smithfield, Southport, Tarboro, Wake Forest, Washington, and Wilson."

**SECTION 8.** G.S. 159B-17 reads as rewritten:

**"§ 159B-17. Revenues – other municipalities.**

(a) A municipality is hereby authorized to fix, charge and collect rents, rates, fees and charges for electric power and energy and other services, facilities and commodities sold, furnished or supplied through the facilities of its electric system or its interest in any joint project. For so long as any bonds of a municipality or amounts payable or to become payable to a joint agency are outstanding and are unpaid, or the payments of which is not fully provided for, the rents, rates, fees and charges shall be so fixed as to provide revenues sufficient to pay all costs of and charges and expenses in connection with the proper operation and maintenance of its electric system, and its interest in any joint project, and all necessary repairs, replacements or renewals thereof, to pay when due the principal of, premium, if any, and interest on all bonds and other evidences of indebtedness payable from said revenues, to create and maintain reserves as may be required by any resolution or trust agreement authorizing and securing bonds, to pay when due the principal of, premium, if any, and interest on all general obligation bonds heretofore or hereafter issued to finance additions, improvements and betterments to its electric system, and to pay any and all amounts which the municipality may be obligated to pay from said revenues by law or ~~contract.~~ contract, including, but not limited to, a support contract authorized by G.S. 159B-12.

(b) A joint agency is hereby authorized to fix, charge, and collect rents, rates, fees and charges for electric power and energy and other services, facilities and commodities sold, furnished or supplied through the facilities of its projects or otherwise as authorized by this Chapter. For so long as any bonds of a joint agency are outstanding and unpaid, the rents, rates, fees and charges shall be so fixed as to provide revenues sufficient to pay all costs of and charges and expenses in connection with the proper operation and maintenance of its projects, and all necessary repairs, replacements or renewals thereof, to pay when due the principal of, premium, if any, and interest on all bonds and other evidences of indebtedness payable from said revenues, to create and maintain reserves as may be required by any resolution or trust agreement authorizing and securing bonds, and to pay any and all amounts which the joint agency may be obligated to pay from said revenues by law or contract.

(c) Any pledge of revenues, ~~securities~~ securities, payments derived from support contracts authorized by G.S. 159B-12, or other moneys made by a municipality, joint agency or joint municipal assistance agency pursuant to this Chapter shall be valid and binding from the date the pledge is made. The revenues, securities, support contract payments, and other moneys so pledged and then held or thereafter received by the municipality, joint agency or joint municipal assistance agency or any fiduciary or other depository shall immediately be subject to the lien of the pledge without any physical delivery thereof or further act, and the lien of the pledge shall be valid and binding as against all parties having claims of any kind in tort, contract, or otherwise against the municipality, joint agency or joint municipal assistance agency without regard to whether such parties have notice thereof. The resolution or trust agreement or any financing statement, continuation statement or other instrument by which a pledge of revenues, securities support contract payment, or other moneys is created need not be filed or recorded in any manner."

**SECTION 9.** This act is effective when it becomes law.  
In the General Assembly read three times and ratified this the 1<sup>st</sup> day of April, 2015.

s/ Daniel J. Forest  
President of the Senate

s/ Tim Moore  
Speaker of the House of Representatives

s/ Pat McCrory  
Governor

Approved 11:18 a.m. this 2<sup>nd</sup> day of April, 2015