

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1989

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HOUSE BILL 1039

Short Title: Water Authority Receive Land.

(Public)

Sponsors: Representative Barnes.

Referred to: Government.

April 6, 1989

A BILL TO BE ENTITLED

AN ACT TO PROVIDE THAT WATER AND SEWER AUTHORITIES SHALL HAVE THE POWER TO ACQUIRE REAL PROPERTY AND INTERESTS IN REAL PROPERTY IN THE SAME MANNER AND BY THE SAME PROCEDURES, EXCEPT BY EMINENT DOMAIN, AS ARE PROVIDED FOR ACQUISITION OF SUCH PROPERTY BY CITIES AND TOWNS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 162A-6 reads as rewritten:

"§ 162A-6. Powers of authority generally.

Each authority created hereunder shall be deemed to be a public instrumentality exercising public and essential governmental functions to provide for the public health and welfare, and each such authority is, subject to the provisions of G.S. 162A-7, hereby authorized and empowered:

- (1) To adopt bylaws for the regulation of its affairs and the conduct of its business;
- (2) To adopt an official seal and alter the same at pleasure;
- (3) To maintain an office at such place or places as it may designate;
- (4) To sue and be sued in its own name, plead and be impleaded;
- (5) To acquire, lease as lessee or lessor, construct, reconstruct, improve, extend, enlarge, equip, repair, maintain and operate any water system or part thereof or any sewer system or part thereof or any combination thereof within or without the participating political subdivisions or any thereof;

- 1 (6) To issue revenue bonds of the authority as hereinafter provided to pay
2 the cost of such acquisition, construction, reconstruction,
3 improvement, extension, enlargement or equipment;
- 4 (7) To issue revenue refunding bonds of the authority as hereinafter
5 provided;
- 6 (8) To combine any water system and any sewer system as a single
7 system for the purpose of operation and financing;
- 8 (9) To fix and revise from time to time and to collect rates, fees and other
9 charges for the use of or for the services and facilities furnished by any
10 system operated by the authority;
- 11 (10) To acquire in the name of the authority by gift, grant, purchase
12 purchase, devise, exchange, lease, acceptance of offers of dedication
13 by plat, or any other lawful method, to the same extent and in the same
14 manner as provided for cities and towns under the provisions of G.S.
15 160A-240.1 and G.S. 160A-374, or the exercise of the right of eminent
16 domain in accordance with the General Statutes of North Carolina
17 which may be applicable to the exercise of such powers by
18 municipalities or counties, any lands or rights in land or water rights in
19 connection therewith, and to acquire such personal property, as it may
20 deem necessary in connection with the acquisition, construction,
21 reconstruction, improvement, extension, enlargement or operation of
22 any water system or sewer system, and to hold and dispose of all real
23 and personal property under its control; provided, that the taking of
24 water from any stream or reservoir by any authority created under the
25 provisions of this Article shall not vest in the taker any rights by
26 prescription; provided, further, that nothing in this section shall affect
27 rights by prescription, if any, now held by any municipality and which
28 may be later transferred to any authority of which such municipality
29 may become a member;
- 30 (11) To make and enter into all contracts and agreements necessary or
31 incidental to the performance of its duties and the execution of its
32 powers under this Article, including a trust agreement or trust
33 agreements securing any revenue bonds issued hereunder, and to
34 employ such consulting and other engineers, superintendents,
35 managers, construction and financial experts, accountants and
36 attorneys, and such employees and agents as may, in the judgment of
37 the authority be deemed necessary, and to fix their compensation;
38 provided, however, that all such expenses shall be payable solely from
39 funds made available under the provisions of this Article;
- 40 (12) To enter into contracts with the government of the United States or any
41 agency or instrumentality thereof, or with any political subdivision,
42 private corporation, copartnership, association or individual providing
43 for the acquisition, construction, reconstruction, improvement,
44 extension, enlargement, operation or maintenance of any water system

1 or sewer system or providing for or relating to the treatment and
2 disposal of sewage or providing for or relating to any water system or
3 the purchase or sale of water;

4 (13) To receive and accept from any federal, State or other public agency
5 and any private agency, person or other entity, donations, loans, grants,
6 aid or contributions of any money, property, labor or other things of
7 value for any sewer system or water system, and to agree to apply and
8 use the same in accordance with the terms and conditions under which
9 the same are provided;

10 (14) To enter into contract with any political subdivision by which the
11 authority shall assume the payment of the principal of and interest on
12 indebtedness of such subdivision; and

13 (14a) To make special assessments against benefited property within the
14 area served or to be served by the authority for the purpose of
15 constructing, reconstructing, extending, or otherwise improving
16 water systems or sanitary collection, treatment, and sewage
17 disposal systems, in the same manner that a county may make
18 special assessments under authority of Chapter 153A, Article 9,
19 except that the language appearing in G.S. 153A-185 reading as
20 follows: 'A county may not assess property within a city pursuant
21 to subdivision (1) or (2) of this section unless the governing board
22 of the city has by resolution approved the project,' shall not apply
23 to assessments levied by Water and Sewer Authorities established
24 pursuant to Chapter 162A, Article 1, of the General Statutes. For
25 the purposes of this paragraph, references in Chapter 153A, Article
26 9, to the 'county,' the 'board of county commissioners,' 'the board'
27 or a specific county official or employee are deemed to refer,
28 respectively, to the authority and to the official or employee of the
29 authority who performs most nearly the same duties performed by
30 the specified county official or employee.

31 Assessment rolls after being confirmed shall be filed for registration in
32 the office of the Register of Deeds of the county in which the property
33 being assessed is located, and the term 'county tax collector' wherever
34 used in G.S. 153A-195 and 153A-196, shall mean the Executive
35 Director or other administrative officer designated by the authority to
36 perform the functions described in said sections of the statute.

37 (14b) To provide for the defense of civil and criminal actions and
38 payment of civil judgments against employees and officers or
39 former employees and officers and members or former members of
40 the governing body as authorized by G.S. 160A-167, as amended.

41 (14c) To adopt ordinances to regulate and control the discharge of
42 sewage into any sewerage system owned or operated by the
43 authority. Prior to the adoption of any such ordinance or any
44 amendment to any such ordinance, the authority shall first pass a

1 declaration of intent to adopt such ordinance or amendment. The
2 declaration of intent shall describe the ordinance which it is
3 proposed that the authority adopt. The declaration of intent shall be
4 submitted to each governing body for review and comment. The
5 authority shall consider any comment or suggestions offered by any
6 governing body with respect to the proposed ordinance or
7 amendment. Thereafter, the authority shall be authorized to adopt
8 such ordinance or amendment to it at any time after 60 days
9 following the submission of the declaration of intent to each
10 governing body.

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

13 (16) To purchase real or personal property as provided by G.S. 160A-
14 20, in addition to any other method allowed under this Article."

15 Sec. 2. This act shall have no effect upon the provisions of G.S. 162A-7.

16 Sec. 3. This act is effective upon ratification, and shall have the effect of
17 validating the acquisition of any property theretofore acquired by any water and sewer
18 authority by any of the methods authorized by this revision of G.S. 162A-6(10) by
19 Section 1 of this act.