

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1995

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HOUSE BILL 556\*

Short Title: Joint Municipal Power Amendments.

(Public)

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Sponsors: Representatives Miner; Arnold, Buchanan, Church, Clary, Crawford, Creech, Culpepper, Daughtry, Dickson, Dockham, Edwards, Gamble, Howard, Hunt, Ives, Locke, McCrary, McLaughlin, Mercer, Pate, Rayfield, Russell, Tallent, Tolson, Wainwright, Weatherly, Wilkins, and Yongue.

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Referred to: Public Utilities.

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March 27, 1995

A BILL TO BE ENTITLED

1  
2 AN ACT TO ENABLE JOINT MUNICIPAL POWER AGENCIES TO ENGAGE IN  
3 ELECTRIC SYSTEM ACTIVITIES AT THE DISTRIBUTION LEVEL, TO  
4 PERMIT TWO EXISTING JOINT MUNICIPAL POWER AGENCIES TO EFFECT  
5 CORPORATE REORGANIZATION, AND TO MAKE TECHNICAL CHANGES  
6 TO THE STATUTES GOVERNING JOINT MUNICIPAL POWER AGENCIES.

7 The General Assembly of North Carolina enacts:

8 Section 1. G.S. 159B-2 reads as rewritten:

9 "**§ 159B-2. Legislative findings and purposes.**

10 The General Assembly hereby finds and determines that:

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

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

15 Such public utilities have found it necessary to postpone or curtail construction of  
16 planned generation and transmission facilities serving the consumers of electricity in the  
17 State, increasing the ultimate cost of such facilities to the public utilities, and that such

1 postponements and curtailments will have an adverse effect on the provision of adequate  
2 and reliable electric service in the State;

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

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

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

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

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

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

32 In addition to the authority granted municipalities to jointly plan, finance, develop,  
33 own and operate electric ~~generation and transmission~~ generation, transmission, and  
34 distribution facilities by Article 2 of this Chapter and the other powers granted in said  
35 Article 2, and in addition and supplemental to powers otherwise conferred on  
36 municipalities by the laws of this State for interlocal cooperation, it is desirable for the  
37 State of North Carolina to authorize municipalities and joint agencies to form joint  
38 municipal assistance agencies which shall be empowered to provide aid and assistance to  
39 municipalities in the construction, ownership, maintenance, expansion and operation of  
40 their electric systems, and to empower joint agencies authorized herein to provide aid and  
41 assistance to municipalities or joint municipal assistance agencies in the development and  
42 implementation of integrated resource planning, including, but not limited to, the  
43 evaluation of resources, generating facilities, alternative energy resources, conservation

1 and load management programs, transmission and distribution facilities, and purchase  
2 power options, and in the development, construction and operation of supply-side and  
3 demand-side resources, in addition to exercising such other powers as hereinafter  
4 provided to joint municipal assistance agencies and joint agencies. In order to provide  
5 maximum economies and efficiencies to municipalities and the consuming public in the  
6 ~~generation and transmission~~ generation, transmission, and distribution of electric power and  
7 energy contemplated by Article 2 of this Chapter, it is also desirable that the joint  
8 municipal assistance agencies authorized herein be empowered to act as provided in  
9 Article 3 of this Chapter and that such agency or agencies be empowered to act for and  
10 on behalf of any one or more ~~municipalities,~~ municipalities or joint agencies, as requested,  
11 with respect to the construction, ownership, maintenance, expansion and operation of  
12 their electric systems; and that the joint agencies authorized herein be empowered to act  
13 as provided in Article 2 of this Chapter and that such ~~agency or joint~~ agencies be  
14 empowered to act for and on behalf of any one or more municipalities or joint municipal  
15 assistance agencies, in each case as requested, with respect to the integrated resource  
16 planning and development, construction, and operation of supply-side and demand-side  
17 options described ~~above.~~ above in addition to exercising such other powers provided in  
18 this Chapter to joint municipal assistance agencies and joint agencies.

19 Market forces are affecting municipalities, joint agencies, and joint municipal  
20 assistance agencies at the same time that their ability to respond to those forces is limited  
21 by statute. It is in the best interest of the State of North Carolina that these public entities  
22 individually and jointly have the flexibility to respond to these developments and other  
23 challenges in the future in a responsible manner and for the benefit of the State and its  
24 citizens. Accordingly, it is desirable that municipalities, joint agencies, and joint  
25 municipal assistance agencies be permitted to exercise all of the powers described in this  
26 Chapter to the fullest extent possible."

27 Sec. 2. G.S. 159B-3 reads as rewritten:

28 **"§ 159B-3. Definitions.**

29 The following terms whenever used or referred to in this Chapter shall have the  
30 following respective meanings unless a different meaning clearly appears from the  
31 context:

- 32 (1) 'Bonds' shall mean ~~electric-revenue~~ bonds, notes and other evidences of  
33 indebtedness of a joint agency or municipality issued under the  
34 provisions of this Chapter and shall include refunding bonds.
- 35 (2) 'Cost' or 'cost of a project' shall mean, but shall not be limited to, the  
36 cost of acquisition, construction, reconstruction, improvement,  
37 enlargement, betterment or extension of any project, including the cost  
38 of studies, plans, specifications, surveys, and estimates of costs and  
39 revenues relating thereto; the cost of land, land rights, rights-of-way and  
40 easements, water rights, fees, permits, approvals, licenses, certificates,  
41 franchises, and the preparation of applications for and securing the  
42 same; administrative, legal, engineering and inspection expenses;  
43 financing fees, expenses and costs; working capital; initial fuel costs;

1 interest on the bonds during the period of construction and for such  
2 reasonable period thereafter as may be determined by the issuing  
3 municipality or joint agency (provided that a period of three years shall  
4 be deemed to be reasonable for bonds issued to finance a generating unit  
5 expected to be operated to supply base load); establishment of reserves;  
6 and all other expenditures of the issuing municipality or joint agency  
7 incidental, necessary or convenient to the acquisition, construction,  
8 reconstruction, improvement, enlargement, betterment or extension of  
9 any project and the placing of the same in operation. The term shall also  
10 mean the capital cost of ~~nuclear~~-fuel for any project.

11 (2a) 'Electric system' shall mean any electric power generation, transmission  
12 or distribution system.

13 (3) 'Governing board' shall mean the legislative body, council, board of  
14 commissioners, board of trustees, or other body charged by law with  
15 governing the municipality, joint agency, or joint municipal assistance  
16 ~~agency~~-agency, including any executive committee created pursuant to  
17 G.S. 159B-10.

18 (4) 'Joint agency' shall mean a public body and body corporate and politic  
19 organized in accordance with the provisions of Article 2 of this Chapter.

20 (4a) 'Joint municipal assistance agency' shall mean a public body and body  
21 corporate and politic organized in accordance with the provisions of  
22 Article 3 of this Chapter.

23 (5) 'Municipality' shall mean a city, town or other unit of municipal  
24 government created under the laws of the State, or any board, agency, or  
25 commission thereof, or any constituent institution of The University of  
26 North Carolina, as defined in Article 1 of Chapter 166 of the General  
27 Statutes, owning a system or facilities for the generation, transmission  
28 or distribution of electric power and energy for public and private uses.

29 (6) 'Project' shall mean any system or facilities for the generation,  
30 ~~transmission and transmission,~~ transformation, distribution, control,  
31 conservation, management, and utilization, or any of them, of electric  
32 power and energy by any means whatsoever including, but not limited to,  
33 any one or more electric generating units situated at a particular site,  
34 or any interest in the foregoing, whether an undivided interest as a  
35 tenant in common or otherwise. Project does not mean an  
36 administrative office building or office or facilities related to the  
37 administrative office building or office.

38 (7) 'State' shall mean the State of North Carolina."

39 Sec. 3. G.S. 159B-4 reads as rewritten:

40 **"§ 159B-4. Authority of municipalities to jointly cooperate.**

41 In addition and supplemental to the powers otherwise conferred on municipalities by  
42 the laws of the State, and in order to accomplish the purposes of this Chapter and to  
43 obtain a supply of electric power and energy for the present and future needs of its

1 inhabitants and customers, a municipality may jointly or severally plan, finance, develop,  
2 construct, reconstruct, acquire, improve, enlarge, better, own, operate and maintain a  
3 project situated within or without the State with one or more other municipalities ~~in this~~  
4 ~~State owning electric distribution facilities or any political subdivisions, agencies or~~  
5 ~~instrumentalities of any state contiguous to this State~~ or joint agencies created pursuant to this  
6 ~~Chapter or Chapter~~ or, in the case of projects for the generation and transmission of  
7 electric power and energy, jointly with any persons, firms, associations or corporations,  
8 public or private, engaged in the generation, transmission or distribution of electric power  
9 and energy for resale within ~~the this~~ State or any state contiguous to the State, and may  
10 make such plans and enter into such contracts in connection therewith, not inconsistent  
11 with the provisions of this Chapter, as are necessary or appropriate.

12 Prior to acquiring any ~~such generation~~ project the governing board shall determine the  
13 needs of the municipality for power and energy based upon engineering studies and  
14 reports, and shall not acquire a project in excess of that amount of capacity and the  
15 energy associated therewith required to provide for its projected needs for power and  
16 energy from and after the date the project is estimated to be placed in normal continuous  
17 operation and for such reasonable period of time thereafter as shall be determined by the  
18 governing board and approved by the North Carolina Utilities Commission in a  
19 proceeding instituted pursuant to G.S. 159B-24. In determining the future power  
20 requirements of a municipality, there shall be taken into account the following:

- 21 (1) The economies and efficiencies to be achieved in constructing on a large  
22 scale facilities for the generation ~~and transmission~~ of electric power and  
23 energy;
- 24 (2) The municipality's needs for reserve and peaking capacity and to meet  
25 obligations under pooling and reserve sharing agreements reasonably  
26 related to its needs for power and energy to which it is or may become a  
27 party;
- 28 (3) The estimated useful life of such project;
- 29 (4) The estimated time necessary for the planning, development, acquisition  
30 or construction of such project and the length of time required in  
31 advance to obtain, acquire or construct additional power supply; and
- 32 (5) The reliability and availability of existing or alternative power supply  
33 sources and the cost of such existing or alternative power supply  
34 sources.

35 A determination by such governing board approved by the North Carolina Utilities  
36 Commission based upon appropriate findings of the foregoing matters shall be conclusive  
37 as to the quantity of the interest which a municipality may acquire in a generation project  
38 unless a party to the proceeding aggrieved by the determination of said Commission shall  
39 file notice of appeal pursuant to Article 5 of Chapter 62 of the General Statutes of North  
40 Carolina.

41 Nothing herein contained shall prevent a municipality or municipalities from  
42 undertaking studies to determine whether there is a need for a project or whether such  
43 project is feasible."

1           Sec. 4. G.S. 159B-5 reads as rewritten:

2   **"§ 159B-5. Joint ownership of a project; provisions of the contract or agreement**  
3   **with respect thereto.**

4       Each municipality shall own a project in proportion to the amount of the money  
5       furnished or the value of property or other consideration supplied by it for the planning,  
6       development, acquisition or construction thereof, and shall be entitled to a percentage  
7       share of the output and capacity therefrom equal to such ownership proportion in such  
8       project.

9       Each municipality shall be severally liable for its own acts and not jointly or severally  
10      liable for the acts, omissions or obligations of others, and no money or property or other  
11      consideration supplied by any municipality shall be credited or otherwise applied to the  
12      account of any other municipality, nor shall the share of any municipality in a project be  
13      charged directly or indirectly with any debt or obligation of any other municipality or be  
14      subject to any lien as a result thereof. The acquisition of a project shall include, but shall  
15      not be limited to, the purchase or lease of an existing, completed project and the purchase  
16      of a project under construction. A municipality participating in the joint or several  
17      planning, financing, construction, reconstruction, acquisition, improvement, enlargement,  
18      betterment, ownership, operation or maintenance of any project under this Chapter may  
19      furnish money derived solely from the proceeds of bonds or from the ownership and  
20      operation of its electric system, or both, and provide property, both real and personal,  
21      services and other considerations.

22      Any contracts entered into by municipalities with respect to ownership in a project  
23      shall contain such terms, conditions and provisions, not inconsistent with the provisions  
24      hereof, as the governing boards of the municipalities shall deem to be in the interests of  
25      the municipalities. Any such contracts shall be ratified by resolution of the governing  
26      board of each municipality spread upon its minutes. Any such contracts shall include, but  
27      shall not be limited to, the following:

- 28           (1)   The purpose or purposes of the contract;
- 29           (2)   The duration of the contract;
- 30           (3)   The manner of appointing or employing the personnel necessary in  
31                connection with the project;
- 32           (4)   The method of financing the project, including the apportionment of  
33                costs and revenues;
- 34           (5)   Provisions specifying the ownership interests of the parties in real  
35                property used or useful in connection with the project, and the  
36                procedures for the disposition of such property when the contract  
37                expires, is terminated or when the project, for any reason, is abandoned,  
38                decommissioned or dismantled;
- 39           (6)   Provisions relating to alienation and prohibiting partition of a  
40                municipality's interest in a project, which provisions shall not be subject  
41                to any provision of law restricting covenants against alienation or  
42                partition;

- 1 (7) Provisions for the construction of a project, which may include the  
2 determination that one participating municipality or any person, firm or  
3 corporation may construct the project as agent for all the parties;
- 4 (8) Provisions for the operation and maintenance of a project, which may  
5 include the determination that one participating municipality or any  
6 person, firm or corporation may operate and maintain the project as  
7 agent for all the parties;
- 8 (9) Provisions for the creation of a committee of representatives of the  
9 participating municipalities with such powers of supervision of the  
10 construction and operation of the project as the contract, not inconsistent  
11 with the provisions of this Chapter, may provide;
- 12 (10) Provisions that if one or more of the municipalities shall default in the  
13 performance or discharge of its or their obligations with respect to the  
14 project, the other party or parties may assume, pro rata or otherwise, the  
15 obligations of such defaulting party or parties and may succeed to such  
16 rights and interests of the defaulting party or parties in the project as  
17 may be agreed upon in the contract;
- 18 (11) Methods for amending the contract;
- 19 (12) Methods for terminating the contract; and
- 20 (13) Any other necessary or proper matter.

21 For the purpose of paying its respective share of the cost of a project or projects, a  
22 municipality may issue its bonds as provided in this Chapter, and, notwithstanding the  
23 provisions of any other law to the contrary, may secure the payment of the principal of,  
24 premium, if any, and interest on such bonds by a lien and charge on all, or any portion of,  
25 the revenue derived or to be derived from the ownership and operation of its system or  
26 facilities for the generation, transmission, or distribution of electric power or energy or its  
27 interests in any project or projects, or a combination of such revenues. Provided that all  
28 bonds issued under the provisions of this Chapter shall be authorized and issued by the  
29 governing board of a city, town, or other unit of municipal government created under the  
30 laws of the State.

31 In connection with any project undertaken pursuant to this Chapter, a municipality  
32 shall have all of the rights and powers granted to a joint agency by subdivisions ~~(12)~~  
33 ~~and (13)~~ ~~(12)~~, (13), and (16) of G.S. ~~159B-11~~-159B-11, but a municipality's  
34 power of sale pursuant to G.S. 159B-11(16) is not limited to resale.

35 Notwithstanding the provisions of any other law to the contrary, any contracts with  
36 respect to the sale or purchase of capacity, output, power or energy from a project may  
37 extend for a period not exceeding 50 years from the date a project is estimated to be  
38 placed in normal continuous operation; and the execution and effectiveness thereof shall  
39 not be subject to any authorizations or approvals by the State or any agency, commission  
40 or instrumentality or political subdivision thereof except as in this Chapter specifically  
41 required and provided."

42 Sec. 5. G.S 159B-5.1 reads as rewritten:

1 **"§ 159B-5.1. Joint ownership with other public or private entities engaged in**  
2 **generation, transmission or distribution of electric power for resale. of**  
3 **projects.**

4 Municipalities and joint agencies may jointly or severally own, operate and maintain  
5 ~~projects~~ projects or, in the case of projects for the generation and transmission of electric  
6 power and energy, jointly with any person, firm, association or corporation, public or  
7 private, engaged in the generation, transmission or distribution of electric power and  
8 energy for resale within this State or any state contiguous to this State. Any municipality  
9 or joint agency shall have for such purposes all powers conferred upon them by the  
10 provisions of this Chapter including the power to issue revenue bonds pursuant to the  
11 provisions of this Chapter to finance its share of the cost of any such project. The  
12 definitions and all other terms and provisions of this Chapter shall be construed so as to  
13 include such undivided ownership interest in order to fully effectuate the power and  
14 authority conferred by the foregoing provisions of this section."

15 Sec. 6. G.S. 159B-6 is repealed.

16 Sec. 7. G.S. 159B-8 is repealed.

17 Sec. 8. G.S. 159B-9 reads as rewritten:

18 **"§ 159B-9. Creation of a joint agency; board of commissioners.**

19 (a) The governing boards of two or more municipalities may by resolution or  
20 ordinance determine that it is in the best interests of the municipalities in accomplishing  
21 the purposes of this Chapter to create a joint agency as prescribed herein for the purpose  
22 of undertaking the planning, financing, development, acquisition, construction,  
23 reconstruction, improvement, enlargement, betterment, operation and maintenance of a  
24 project or projects ~~to supply electric power and energy for their present or future needs as an~~  
25 alternative or supplemental method of obtaining the benefits and assuming the  
26 responsibilities of ownership in a project.

27 In determining whether or not creation of a joint agency for such purpose is in the best  
28 interests of the municipalities, the governing boards shall take into consideration, but  
29 shall not be limited to, the following:

- 30 (1) Whether or not a separate entity may be able to finance the cost of  
31 projects in a more efficient and economical manner;
- 32 (2) Whether or not better financial market acceptance may result if one  
33 entity is responsible for issuing all of the bonds required for a project or  
34 projects in a timely and orderly manner and with a uniform credit rating  
35 instead of multiple entities issuing separate issues of bonds;
- 36 (3) Whether or not savings and other advantages may be obtained by  
37 providing a separate entity responsible for the acquisition, construction,  
38 ownership and operation of a project or projects; and
- 39 (4) Whether or not the existence of such a separate entity will foster the  
40 continuation of joint planning and undertaking of projects, and the  
41 resulting economies and efficiencies to be derived from such joint  
42 planning and undertaking.



1 If each governing board shall determine that it is in the best interest of the  
2 municipality to create a joint agency ~~to provide power and energy to the municipality~~ as  
3 provided in this Chapter, each shall adopt a resolution or ordinance so finding (which  
4 need not prescribe in detail the basis for the determination), and which shall set forth the  
5 names of the municipalities which are proposed to be initial members of the joint agency.  
6 The governing board of the municipality shall thereupon by ordinance or resolution  
7 appoint one commissioner of the joint agency who may, at the discretion of the governing  
8 board, be an officer or employee of the municipality.

9 Any two or more commissioners so named may file with the Secretary of State an  
10 application signed by them setting forth (i) the names of all the proposed member  
11 municipalities; (ii) the name and official residence of each of the commissioners so far as  
12 known to them; (iii) a certified copy of the appointment evidencing their right to office;  
13 (iv) a statement that each governing board of each respective municipality appointing a  
14 commissioner has made the aforesaid determination; (v) the desire that a joint agency be  
15 organized as a public body and a body corporate and politic under this Chapter; and (vi)  
16 the name which is proposed for the joint agency.

17 The application shall be subscribed and sworn to by such commissioners before an  
18 officer or officers authorized by the laws of the State to administer and certify oaths.

19 The Secretary of State shall examine the application and, if he finds that the name  
20 proposed for the joint agency is not identical with that of any other corporation of this  
21 State or of any agency or instrumentality thereof, or so nearly similar as to lead to  
22 confusion and uncertainty, he shall receive and file it and shall record it in an appropriate  
23 book of record in his office.

24 When the application has been made, filed and recorded as herein provided, the joint  
25 agency shall constitute a public body and a body corporate and politic under the name  
26 proposed in the application. The Secretary of State shall make and issue to the  
27 commissioners executing the application a certificate of incorporation pursuant to this  
28 Chapter under the seal of the State, and shall record the same with the application. The  
29 certificate shall set forth the names of the member municipalities.

30 In any suit, action or proceeding involving the validity or enforcement of, or relating  
31 to, any contract of the joint agency, the joint agency, in the absence of establishing fraud  
32 in the premises, shall be conclusively deemed to have been established in accordance  
33 with the provisions of this Chapter upon proof of the issuance of the aforesaid certificate  
34 by the Secretary of State. A copy of such certificate, duly certified by the Secretary of  
35 State, shall be admissible in evidence in any such suit, action or proceeding, and shall be  
36 conclusive proof of the filing and contents thereof.

37 Notice of the issuance of such certificate shall be given to all of the proposed member  
38 municipalities by the Secretary of State. If a commissioner of any such municipality has  
39 not signed the application to the Secretary of State and such municipality does not notify  
40 the Secretary of State of the appointment of a commissioner within 40 days after receipt  
41 of such notice, such municipality shall be deemed to have elected not to be a member of  
42 the joint agency. As soon as practicable after the expiration of such 40-day period, the  
43 Secretary of State shall issue a new certificate of incorporation, if necessary, setting forth

1 the names of those municipalities which have elected to become members of the joint  
2 agency. The failure of any proposed member to become a member shall not affect the  
3 validity of the corporate existence of the joint agency.

4 (b) After the creation of a joint agency, any other municipality may become a  
5 member thereof upon application to such joint agency after the adoption of a resolution or  
6 ordinance by the governing board of the municipality setting forth the determination and  
7 finding prescribed in paragraph (a) of this G.S. 159B-9, and authorizing said municipality  
8 to participate, and with the unanimous consent of the members of the joint agency  
9 evidenced by the resolutions of their respective governing bodies. Any municipality may  
10 withdraw from a joint agency, provided, however, that all contractual rights acquired and  
11 obligations incurred while a municipality was a member shall remain in full force and  
12 effect.

13 (c) The powers of a joint agency shall consist of a board be exercised by or under  
14 the authority of, and the business and affairs of a joint agency shall be managed under the  
15 direction of, its board of commissioners. However, all or a portion of those powers and  
16 the management of all or any part of the business and affairs of a joint agency may be  
17 exercised by an executive committee created pursuant to G.S. 159B-10. The board of  
18 commissioners shall consist of commissioners appointed by the respective governing  
19 boards of the municipalities which are members of the joint agency. Each commissioner  
20 shall have not less than one vote and may have in addition thereto such additional votes  
21 as the governing boards of a majority of the municipalities which are members of the  
22 agency shall determine. Each commissioner shall serve at the pleasure of the governing  
23 board by which he—the commissioner was appointed. Each appointed commissioner  
24 before entering upon his duties shall take and subscribe to an oath before some person  
25 authorized by law to administer oaths to execute the duties of his office faithfully and  
26 impartially, and a record of each such oath shall be filed with the governing board of the  
27 appointing municipality and spread upon its minutes. The governing board of each of the  
28 municipalities may appoint up to two alternate commissioners to act in lieu of its  
29 appointed commissioner when the appointed commissioner is unable for any reason to  
30 attend meetings of the board of commissioners or any committee thereof, and the  
31 governing board shall designate them as first or second alternate commissioner. Each  
32 alternate commissioner shall serve at the pleasure of the governing body by which he is  
33 that commissioner was appointed and shall take, subscribe to and file an oath in the same  
34 manner as prescribed for regularly appointed commissioners. Such alternate  
35 commissioner when acting in lieu of the regularly appointed commissioner shall be  
36 deemed to be the commissioner of such municipality, and shall have the rights, powers  
37 and authority of the regularly appointed commissioner, including any committee function  
38 of said commissioner, other than such commissioner's position as an officer pursuant to  
39 paragraph (d) of this G.S. 159B-9. A certificate entered into the minutes of the board of  
40 commissioners of a joint agency by the clerk or other custodian of the minutes and  
41 records of the governing body of a municipality, appointing commissioners and alternate  
42 commissioners and reciting their appointments, shall constitute conclusive evidence of  
43 their appointment. The offices of commissioner, alternate commissioner, or officer of a

1 joint agency are hereby declared to be offices which may be held by the holders of any  
2 office, place of trust or profit in addition to and concurrently with those offices permitted  
3 by G.S. 128-1.1 and other offices permitted by other General Statute.

4 (d) The board of commissioners of the joint agency shall annually elect one of the  
5 commissioners as chairman, another as vice-chairman, and another person or persons,  
6 who may but need not be commissioners, as treasurer, secretary, and, if desired, assistant  
7 ~~secretary~~-secretary and assistant treasurer. The office of treasurer or assistant treasurer  
8 may be held by the secretary or assistant secretary. The board of commissioners may also  
9 appoint such additional officers as it deems necessary. The secretary or any assistant  
10 secretary of the joint agency shall keep a record of the proceedings of the joint agency,  
11 and the secretary shall be the custodian of all records, books, documents and papers filed  
12 with the joint agency, the minute book or journal of the joint agency and its official seal.  
13 Either the secretary or the assistant secretary of the joint agency may cause copies to be  
14 made of all minutes and other records and documents of the joint agency and may give  
15 certificates under the official seal of the joint agency to the effect that such copies are true  
16 copies, and all persons dealing with the joint agency may rely upon such certificates.

17 (e) A majority of the commissioners of a joint agency then in office shall  
18 constitute a quorum. A vacancy in the board of commissioners of the joint agency shall  
19 not impair the right of a quorum to exercise all the rights and perform all the duties of the  
20 joint agency. Any action taken by the joint agency under the provisions of this Chapter  
21 may be authorized by resolution at any regular or special meeting, and each such  
22 resolution ~~shall~~-may take effect immediately and need not be published or posted. A  
23 majority of the votes which the commissioners present are entitled to cast shall be  
24 necessary and sufficient to take any action or to pass any resolution, provided that such  
25 commissioners present are entitled to cast a majority of the votes of all commissioners of  
26 the board.

27 (f) No commissioner of a joint agency shall receive any compensation for the  
28 performance of his duties hereunder, provided, however, that each commissioner may be  
29 paid his necessary expenses incurred while engaged in the performance of such duties."

30 Sec. 9. G.S. 159B-10 reads as rewritten:

31 "**§ 159B-10. Executive committee, composition; powers and duties; terms.**

32 ~~The board of commissioners of the joint agency may create an executive committee of~~  
33 ~~the board of commissioners. The board may provide for the composition of the executive~~  
34 ~~committee so as to afford, in its judgment, fair representation of the member~~  
35 ~~municipalities. The executive committee shall have and shall exercise such of the powers~~  
36 ~~and authority of the board of commissioners during the intervals between the board's~~  
37 ~~meetings as shall be prescribed in the board's rules, motions and resolutions. The terms of~~  
38 ~~office of the members of the executive committee and the method of filling vacancies~~  
39 ~~therein shall be fixed by the rules of the board of commissioners of the joint agency.~~

40 (a) The board of commissioners of a joint agency may create an executive  
41 committee by resolution. The board may provide for the composition and terms of office  
42 of, and the method of filling vacancies on, the executive committee. The executive  
43 committee may include representatives of the joint agency, representatives of any other

1 joint agency, and any other persons. The executive committee of a joint agency may  
2 simultaneously act as the executive committee of any other joint agency or agencies, or  
3 joint municipal assistance agency or agencies, if so provided by all such entities, and also  
4 may simultaneously act as the sole governing board of any joint municipal assistance  
5 agency created by two or more joint agencies pursuant to G.S. 159B-45 if so provided by  
6 all such joint agencies. An executive committee acting as the sole governing board of a  
7 joint municipal assistance agency shall not be subject to the limitations on the powers and  
8 authority of executive committees set forth in subsection (b) of this section.

9 (b) Except as limited by resolution of the board of commissioners creating an  
10 executive committee and except as otherwise provided in this subsection, an executive  
11 committee shall have and shall exercise all of the powers and authority of the board of  
12 commissioners creating the executive committee. However, the executive committee  
13 shall not have the power or authority to (i) amend any resolution of the board of  
14 commissioners of the joint agency relating to the creation of the executive committee or  
15 providing for its powers or authority; or (ii) adopt or amend a budget. Any rate for a joint  
16 agency adopted by an executive committee may be rejected, within 30 days following the  
17 adoption of the rate, by the vote of two-thirds in number of the commissioners  
18 representing the joint agency members affected by the rate. In the event that any rate is  
19 rejected in this manner, the executive committee shall, within 10 days following the  
20 action on the part of the commissioners, adopt a second rate for that joint agency, which  
21 may be the same rate as previously adopted. This second rate may be rejected, within 10  
22 days following the adoption of the rate, by a vote of two-thirds in number of the  
23 commissioners representing the joint agency members affected by the rate. If a second  
24 rate adopted by the executive committee is rejected in this manner, the board of  
25 commissioners of the affected joint agency shall, acting by weighted vote, adopt a rate for  
26 the joint agency which is sufficient at least to comply with the requirements of G.S.  
27 159B-17(b). No such rate adopted by the executive committee shall become effective so  
28 long as it is subject to rejection by commissioners of a joint agency as provided for in this  
29 subsection. However, if the executive committee determines that the establishment of a  
30 rate is required within 50 days to enable a joint agency to satisfy the requirements of G.S.  
31 159B-17(b), the rate adopted by the executive committee shall be effective until changed  
32 by the executive committee or board of commissioners in accordance with this  
33 subsection.

34 (c) Each member of the executive committee shall have one vote and shall serve at  
35 the pleasure of the governing board by which the member was appointed. Before  
36 performing duties as a member, each member shall take and subscribe to an oath before  
37 some person authorized by law to administer oaths to execute the duties of the office  
38 faithfully and impartially, and a record of each oath shall be filed with the governing  
39 board appointing the member and spread upon its minutes. The office of a member of an  
40 executive committee may be held by the holders of any office, place of trust or profit in  
41 addition to and concurrently with those offices permitted by G.S. 128-1.1 and other  
42 offices permitted by law.

1       The executive committee shall annually elect from its membership a chair and vice-  
2 chair, and shall elect another person or persons, who need not be members, to serve as  
3 secretary and, if desired, assistant secretary. The secretary or any assistant secretary of  
4 the executive committee shall keep a record of the proceedings of the executive  
5 committee, and the secretary shall be the custodian of all records, books, documents, and  
6 papers filed with the executive committee, as well as the minute book or journal of the  
7 executive committee. Either the secretary or the assistant secretary of the executive  
8 committee may cause copies to be made of all minutes and other records and documents  
9 of the executive committee and may give certificates of the executive committee to the  
10 effect that the copies are true copies, and all persons dealing with the executive  
11 committee may rely upon those certificates.

12       (e) A majority of the members of an executive committee then serving shall  
13 constitute a quorum. A vacancy on the executive committee shall not impair the right of  
14 a quorum to exercise all the rights and perform all the duties of the executive committee.  
15 Any action taken by the executive committee under the provisions of this Chapter may be  
16 authorized by resolution at any regular or special meeting, and each such resolution may  
17 take effect immediately and need not be published or posted. A vote of the majority of  
18 the members present shall be necessary and sufficient to take any action or to pass any  
19 resolution, provided that those members present are entitled to cast a majority of the  
20 votes of all members of the executive committee.

21       (f) Members of the executive committee, and of any subcommittee created by the  
22 executive committee, may receive compensation and be paid expenses for the  
23 performance of their duties as determined by the board or boards of commissioners  
24 creating that executive committee. However, for any member of an executive committee  
25 who is an employee of a municipality, a payment in lieu of any compensation shall be  
26 made to the municipality for distribution to the executive committee member in the  
27 manner and amount, if any, it deems appropriate. An executive committee for more than  
28 one entity may be referred to as a board of directors of any or each of those entities."

29       Sec. 10. G.S. 159B-11 reads as rewritten:

30 **"§ 159B-11. General powers of joint agencies; prerequisites to undertaking projects.**

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

- 34       (1) To adopt bylaws for the regulation of the affairs and the conduct of its  
35       business, and to prescribe rules, regulations and policies in connection  
36       with the performance of its functions and duties;
- 37       (2) To adopt an official seal and alter the same at pleasure;
- 38       (3) To acquire and maintain an administrative office building or office at  
39       such place or places as it may determine, which building or office may  
40       be used or owned alone or together with any other joint agency or  
41       agencies, joint municipal assistance agency, municipalities,  
42       corporations, associations or persons under such terms and provisions  
43       for sharing costs and otherwise as may be ~~determined~~-determined;

- 1 (4) To sue and be sued in its own name, and to plead and beimpleaded;
- 2 (5) To receive, administer and comply with the conditions and requirements
- 3 respecting any gift, grant or donation of any property or money;
- 4 (6) To acquire by purchase, lease, gift, or otherwise, or to obtain options for
- 5 the acquisition of, any property, real or personal, improved or
- 6 unimproved, including an interest in land less than the fee thereof;
- 7 (7) To sell, lease, exchange, transfer or otherwise dispose of, or to grant
- 8 options for any such purposes with respect to, any real or personal
- 9 property or interest therein;
- 10 (8) To pledge, assign, mortgage or otherwise grant a security interest in any
- 11 real or personal property or interest therein, including the right and
- 12 power to pledge, assign or otherwise grant a security interest in any
- 13 money, rents, charges or other revenues and any proceeds derived by the
- 14 joint agency from the sales of property, insurance or condemnation
- 15 ~~awards.~~ awards;
- 16 (9) To issue bonds of the joint agency for the purpose of providing funds
- 17 for any of its corporate purposes;
- 18 (10) To study, plan, finance, construct, reconstruct, acquire, improve,
- 19 enlarge, extend, better, own, operate and maintain one or more projects,
- 20 either individually or jointly with one or more municipalities ~~in or joint~~
- 21 agencies or, in the case of projects for the generation and transmission
- 22 of electric power and energy, jointly with any person, firm, association,
- 23 or corporation, public or private, engaged in the generation,
- 24 transmission, or distribution of electric power and energy for resale
- 25 within this State or any state contiguous to this State owning electric
- 26 distribution facilities or with any political subdivisions, agencies or
- 27 instrumentalities of any state contiguous to this State or with other joint
- 28 agencies created pursuant to this Chapter, and to pay all or any part of the
- 29 costs thereof from the proceeds of bonds of the joint agency or from any
- 30 other available funds of ~~made available to the joint agency;~~ no provisions
- 31 of law with respect to the acquisition, construction, or operation of
- 32 property by other public bodies shall be applicable to any project as
- 33 defined in this Chapter and as authorized by this subdivision unless the
- 34 General Assembly shall specifically so state;
- 35 (11) To authorize the construction, operation or maintenance of any project
- 36 or projects by any person, ~~firm or corporation, including political~~
- 37 ~~subdivisions and agencies of any state, or of the United States;~~ firm,
- 38 association, or corporation, public or private;
- 39 (12) To acquire by private negotiated purchase or lease or otherwise an
- 40 existing project, a project under construction, or other property, either
- 41 individually or jointly, with one or more municipalities or joint agencies
- 42 or, in the case of projects for the generation and transmission of electric
- 43 power and energy, jointly with any person, firm, association, or

1            corporation, public or private, engaged in the generation, transmission,  
2            or distribution of electric power and energy for resale within this State  
3            ~~or any state contiguous to this State owning electric distribution facilities or~~  
4            ~~with any political subdivisions, agencies or instrumentalities of any state~~  
5            ~~contiguous to this State or with other joint agencies created pursuant to this~~  
6            ~~Chapter; State;~~ to acquire by private negotiated purchase or lease or  
7            otherwise any facilities for the development, production, manufacture,  
8            procurement, handling, storage, fabrication, enrichment, processing or  
9            reprocessing of fuel of any kind or any facility or rights with respect to  
10           the supply of water, and to enter into agreements by private negotiation  
11           or otherwise, for a period not exceeding fifty (50) years, for the  
12           development, production, manufacture, procurement, handling, storage,  
13           fabrication, enrichment, processing or reprocessing of fuel of any kind  
14           or any facility or rights with respect to the supply of water; no  
15           provisions of law with respect to the acquisition, construction or  
16           operation of property by other public bodies shall be applicable to any  
17           agency created pursuant to this Chapter unless the legislature shall  
18           specifically so state;

19           (13) ~~To dispose of by private negotiated sale or lease, or otherwise otherwise,~~  
20           ~~an existing project, project or a project under construction, or other~~  
21           ~~property either individually or jointly with one or more municipalities in this~~  
22           ~~State or any state contiguous to this State owning electric distribution facilities~~  
23           ~~or with any political subdivisions, agencies or instrumentalities of any state~~  
24           ~~contiguous to this State or with other joint agencies created pursuant to this~~  
25           ~~Chapter; any part of or interest in such a project, or other property;~~ to  
26           dispose of by private negotiated sale or lease, or otherwise any facilities  
27           for the development, production, manufacture, procurement, handling,  
28           storage, fabrication, enrichment, processing or reprocessing of fuel of  
29           any kind or any facility or rights with respect to the supply of water; no  
30           provisions of law with respect to the disposition of property by other  
31           public bodies shall be applicable to an agency created pursuant to this  
32           Chapter unless the legislature shall specifically so state;

33           (14) To fix, charge and collect rents, rates, fees and charges for electric  
34           power or energy and other services, facilities and commodities sold,  
35           furnished or supplied through any project; project or activity;

36           (15) To generate, produce, transmit, deliver, exchange, interchange, wheel,  
37           pool, conserve, control, manage, purchase, or sell for resale only, or  
38           provide for the distribution and utilization of, electric power or energy,  
39           ~~and to enter into contracts for any or all such purposes; energy;~~

40           (16) To negotiate and enter into contracts for the purchase, sale, sale for  
41           resale only, exchange, interchange, wheeling, pooling, transmission or  
42           use of electric power and energy with any municipality in this State or any  
43           ~~other state owning electric distribution facilities or with any political~~

1 ~~subdivisions, agencies or instrumentalities of any other state or with other~~  
2 ~~joint agencies created pursuant to this Chapter, any electric membership~~  
3 ~~corporation, any public utility, and any state, federal or municipal agency~~  
4 ~~which owns electric generation, transmission or distribution facilities in this~~  
5 ~~State or any other state; any person, firm, association, or corporation,~~  
6 public or private;

7 (17) To make and execute contracts and other instruments necessary or  
8 convenient in the exercise of the powers and functions of the joint  
9 agency under this Chapter, including contracts with persons, firms,  
10 ~~corporations and others, associations, or corporations,~~ public or private;

11 (18) To apply to the appropriate agencies of the State, the United States or  
12 any state thereof, and to any other proper ~~agency~~ agency, for such  
13 permits, licenses, certificates or approvals as may be necessary, and to  
14 construct, maintain and operate projects and undertake other activities in  
15 accordance with such licenses, permits, certificates or approvals, and to  
16 obtain, hold and use such licenses, permits, certificates and approvals in  
17 the same manner as any other person or operating unit of any other  
18 person;

19 (19) To employ engineers, architects, attorneys, real estate counselors,  
20 appraisers, financial advisors and such other consultants and employees  
21 as may be required in the judgment of the joint agency and to fix and  
22 pay their compensation from funds available to the joint agency therefor  
23 and to select and retain subject to approval of the Local Government  
24 Commission the financial consultants, underwriters and bond attorneys  
25 to be associated with the issuance of any bonds and to pay for services  
26 rendered by underwriters, financial consultants or bond attorneys out of  
27 the proceeds of any such issue with regard to which the services were  
28 performed;

29 (19a) To purchase power and energy, and services and facilities relating to the  
30 utilization of power and energy, from any source on behalf of its  
31 members and other customers and to furnish, sell, lease, exchange,  
32 transfer, or otherwise dispose of, or to grant options for any such  
33 purposes with respect to the same, to its members and other customers  
34 in such amounts, with such characteristics, for such periods of time and  
35 under such terms and conditions as the governing board of  
36 ~~commissioners~~ of the joint agency shall determine;

37 (19b) ~~To provide aid and assistance to municipalities, and to act for or on~~  
38 ~~behalf of any municipality, in any activity related to the development~~  
39 ~~and implementation of integrated resource planning, including, but not~~  
40 ~~limited to, the evaluation of resources, generating facilities, alternative~~  
41 ~~energy resources, conservation and load management programs,~~  
42 ~~transmission and distribution facilities, and purchased power options,~~  
43 ~~and related to the development, construction and operation of supply~~



1 ~~side and demand-side resources, and to do such other acts and things as~~  
2 ~~provided in Article 3 of this Chapter as if the joint agency were a joint~~  
3 ~~municipal assistance agency, and to carry out the powers granted in this~~  
4 ~~Chapter in relation thereto; to provide aid and assistance to any joint~~  
5 ~~municipal assistance agency in the exercise of its respective powers and~~  
6 ~~functions; and~~

7 To provide aid and assistance to municipalities, and with the consent of  
8 any municipality, to act for or on behalf of that municipality, in any  
9 activity related to

10 a. The development and implementation of integrated resource  
11 planning, including, but not limited to, the evaluation of  
12 resources, generating facilities, alternative energy resources,  
13 conservation and load management programs, transmission and  
14 distribution facilities, and purchased power options, or

15 b. The planning, development, construction, operation, and  
16 maintenance of

17 1. Supply-side and demand-side resources, or

18 2. Electric systems,

19 and to do such other acts and things, and have all the rights and powers,  
20 as provided in Article 3 of this Chapter as if the joint agency were a  
21 joint municipal assistance agency, and to carry out the powers granted  
22 in this Chapter in relation thereto;

23 (19c) To provide aid and assistance, including the making of grants and loans,  
24 to one or more municipalities to enable them to exercise or facilitate  
25 their powers under G.S. 158-7.1(a) and (b), but only (i) in the case of a  
26 loan, if and to the extent that the municipality is authorized by the  
27 Constitution and General Statutes of North Carolina to incur debt and  
28 borrow money for that purpose, upon compliance by that municipality  
29 with those requirements of the Constitution and General Statutes; and  
30 (ii) if the joint agency reasonably anticipates that the making of the  
31 grant or loan will result in economic benefit to the municipality and will  
32 not adversely affect the joint agency or its members;

33 (19d) To provide aid and assistance to any joint municipal assistance agency  
34 in the exercise of its respective powers and functions;

35 (19e) To make grants or loans to one or more municipalities for any lawful  
36 purpose related to their electric systems, including generation,  
37 transmission, transformation, distribution, control, conservation  
38 management, and utilization of electric power and energy, but only (i) in  
39 the case of a loan, if and to the extent that the municipality is authorized  
40 by the Constitution and General Statutes of North Carolina to incur debt  
41 and borrow money for that purpose, upon compliance by that member  
42 with those requirements of the Constitution and General Statutes; and  
43 (ii) if the joint agency reasonably anticipates that the making of the

1 grant or loan will result in economic benefit to the municipality and will  
2 not adversely affect the joint agency or its members; and

- 3 (20) To do all acts and things necessary, convenient or desirable to carry out  
4 the purposes, and to exercise the powers granted to the joint agency  
5 ~~therein.~~ in this Chapter.

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

- 18 (1) The economies and efficiencies to be achieved in constructing on a large  
19 scale facilities for the generation ~~and transmission~~ of electric power and  
20 energy;  
21 (2) Needs of the joint agency for reserve and peaking capacity and to meet  
22 obligations under pooling and reserve-sharing agreements reasonably  
23 related to its needs for power and energy to which the joint agency is or  
24 may become a party;  
25 (3) The estimated useful life of such project;  
26 (4) The estimated time necessary for the planning, development,  
27 acquisition, or construction of such project and the length of time  
28 required in advance to obtain, acquire or construct additional power  
29 supply for the members of the joint agency;  
30 (5) The reliability and availability of existing alternative power supply  
31 sources and the cost of such existing alternative power supply sources.

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

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

40 Sec. 11. G.S. 159B-12 reads as rewritten:

41 "**§ 159B-12. Sale of capacity and output by a joint agency; other contracts with a**  
42 **joint agency.**

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

24 ~~Notwithstanding the provisions of any other law to the contrary, any such contract~~  
25 ~~with respect to the sale or purchase of capacity, output, power or energy from a project~~  
26 ~~may extend for a period not exceeding 50 years from the date a project is estimated to be~~  
27 ~~placed in normal continuous operation.—Any municipality may contract with a joint~~  
28 ~~agency, or may contract indirectly with a joint agency through a joint municipal~~  
29 ~~assistance agency, with respect to a project, for the provision of services and facilities~~  
30 ~~relating to the utilization of power and energy and to implement the provisions of G.S.~~  
31 ~~159B-11(19b) through G.S. 159B-11(19e).~~ Notwithstanding the provisions of any  
32 law to the contrary, including, but not limited to, the provisions of G.S. 159B-44(13), any  
33 contract between a joint agency and a municipality or a joint municipal assistance agency  
34 (or between a municipality and a joint municipal assistance agency) to provide aid and  
35 assistance in the development and implementation of integrated resource planning, and  
36 the development, construction, and operation of supply-side and demand-side resources,  
37 and any contract providing for payments by any municipality directly to any joint agency  
38 (or indirectly to any joint agency through a joint municipal assistance agency) or by any  
39 joint municipal assistance agency to any joint agency for the provision of aid and  
40 assistance in the development and implementation of integrated resource planning, and  
41 the development, construction, and operation of supply-side and demand-side resources,  
42 implement the provisions of G.S. 159B-11(19b) through G.S. 159B-11(19e) may extend  
43 for a period not exceeding 30 years; provided, that any such contract in respect of a

1 capital project to be used by or for the benefit of a municipality shall be subject to the  
2 prior approval of the Local Government Commission of North Carolina. In reviewing any  
3 such contract for approval, said Local Government Commission shall consider the  
4 municipality's debt management procedures and policies, whether the municipality is in  
5 default with respect to its debt service obligations and such other matters as said Local  
6 Government Commission may believe to have a bearing on whether the contract should  
7 be approved. ~~Notwithstanding the provisions of any law to the contrary, the execution  
8 and effectiveness of any such contracts with respect to the sale or purchase of capacity,  
9 output, power or energy from a project, or of any contracts with respect to the purchase or  
10 disposition of power and energy and services and facilities related to the utilization of  
11 power and energy, or of any contracts with a municipality or joint municipal assistance  
12 agency to provide aid and assistance in the development and implementation of  
13 integrated resource planning, and the development, construction, and operation of supply-  
14 side and demand-side resources,~~

15 Notwithstanding the provisions of any law to the contrary, the execution and  
16 effectiveness of any contracts authorized by this section shall not be subject to any  
17 authorizations or approvals by the State or any agency, commission or instrumentality or  
18 political subdivision thereof except as in this Chapter specifically required and provided  
19 provided, including the provisions of G.S. 159B-11(19e).

20 ~~Payments by a municipality under any contract for the purchase of capacity, output, or~~  
21 ~~power or energy or services and facilities related to the utilization of power and energy,~~  
22 ~~from a joint agency, and payments by any municipality directly to any joint agency (or~~  
23 ~~indirectly to any joint agency through a joint municipal assistance agency) under any~~  
24 ~~contract or contracts to provide aid and assistance in the development and~~  
25 ~~implementation of integrated resource planning, and the development, construction, and~~  
26 ~~operation of supply-side and demand-side resources, authorized by this section, except to~~  
27 ~~implement the provisions of G.S. 159B-11(19c), shall be made solely from the revenues~~  
28 ~~derived from the ownership and operation of the electric system of said municipality and~~  
29 ~~any obligation under such contract shall not constitute a legal or equitable pledge, charge,~~  
30 ~~lien, or encumbrance upon any property of the municipality or upon any of its income,~~  
31 ~~receipts, or revenues, except the revenues of its electric system, and neither the faith and~~  
32 ~~credit nor the taxing power of the municipality are, or may be, pledged for the payment of~~  
33 ~~any obligation under any such contract. A municipality or joint agency, pursuant to an~~  
34 ~~agreement with a municipality, shall be obligated to fix, charge and collect rents, rates,~~  
35 ~~fees and charges for electric power and energy and other services, activities, facilities and~~  
36 ~~commodities sold, furnished or supplied through its—the electric system of the~~  
37 ~~municipality sufficient to provide revenues adequate to meet its obligations under any~~  
38 ~~such contract and to pay any and all other amounts payable from or constituting a charge~~  
39 ~~and lien upon such revenues, including amounts sufficient to pay the principal of and~~  
40 ~~interest on general obligation bonds heretofore or hereafter issued by the municipality for~~  
41 ~~purposes related to its electric system.~~

42 Payments by any joint municipal assistance agency to any joint agency under any  
43 contract or contracts to provide aid and assistance in the development and

1 ~~implementation of integrated resource planning, and the development, construction, and~~  
2 ~~operation of supply side and demand side resources, contracts, and payments by any~~  
3 ~~municipality to any joint agency or joint municipal assistance agency to implement the~~  
4 ~~provisions of G.S. 159B-11(19c), shall be made solely from the sources specified in such~~  
5 ~~contract or contracts and no other, and any obligation under such contract shall not~~  
6 ~~constitute a legal or equitable pledge, charge, lien, or encumbrance upon any property of~~  
7 ~~the joint municipal assistance agency or upon any of its income, receipts, or revenues,~~  
8 ~~except such sources so specified, or upon any property of any municipality with which~~  
9 ~~the joint agency or joint municipal assistance agency contracts or upon any of such~~  
10 ~~municipality's income, receipts, or revenues except the revenues of such municipality's~~  
11 ~~electric system. in each case except such sources so specified. A joint municipal~~  
12 ~~assistance agency shall be obligated to fix, charge and collect rents, rates, fees, and~~  
13 ~~charges for providing aid and assistance sufficient to provide revenues adequate to meet~~  
14 ~~its obligations under such contract.~~

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

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

25 Sec. 12. G.S. 159B-13 is repealed.

26 Sec. 13. G.S. 159B-14 reads as rewritten:

27 **"§ 159B-14. Bonds of a joint agency.**

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

39 Sec. 14. G.S. 159B-15 reads as rewritten:

40 **"§ 159B-15. Issuance of bonds.**

41 (a) Each municipality and joint agency is hereby authorized to issue at one time or  
42 from time to time its bonds for the purpose of paying all or any part of the cost of any of  
43 the purposes herein authorized. The principal of, premium, if any, and the interest on

1 bonds issued to pay the cost of a project shall be payable solely from revenues. Bonds  
2 that are not issued to pay the cost of a project shall be payable from revenues, from  
3 property pledged as security for the bonds, or from both.

4 The bonds of each issue shall bear interest at such rate or rates as may be determined  
5 or provided for by the Local Government Commission of North Carolina with the  
6 approval of the issuer, ~~provided that the issuer or the Local Government Commission may by~~  
7 ~~contract provide for the establishment and revision by an agent from time to time of interest rates~~  
8 ~~on bonds that bear interest at a variable rate.~~ issuer. The bonds of each issue shall be dated  
9 and shall mature in such amounts and at such time or times, not exceeding 50 years from  
10 their respective date or dates, as may be determined by the governing board of the issuer,  
11 and may be made redeemable before maturity at such price or prices and under such  
12 terms and conditions as may be fixed by the governing board of the issuer prior to the  
13 issuance of the bonds. The governing board of the issuer shall determine the form and the  
14 manner of execution of the bonds, including any interest coupons to be attached thereto,  
15 and shall fix the denomination or denominations of the bonds and the place or places of  
16 payment of principal and interest, which may be at any bank or trust company within or  
17 without the State. In case any officer whose signature or a facsimile of whose signature  
18 shall appear on any bonds or coupons shall cease to be such officer before the delivery of  
19 such bond, such signature or such facsimile shall nevertheless be valid and sufficient for  
20 all purposes the same as if he had remained in office until such delivery. The governing  
21 board of the issuer may also provide for the authentication of the bonds by a trustee or  
22 fiscal agent appointed by the issuer, or by an authenticating agent of any such trustee or  
23 fiscal agent. The bonds may be issued in coupon or in fully registered form, or both, as  
24 the governing board of the issuer may determine, and provisions may be made for the  
25 registration of any coupon bonds as to principal alone and also as to both principal and  
26 interest, and for the reconversion into coupon bonds of any bonds registered as to both  
27 principal and interest, and for the interchange of registered and coupon bonds. At the  
28 election of a joint agency, any bonds issued and sold in accordance with the provisions of  
29 this Chapter may be purchased or otherwise acquired by the joint agency and held by it in  
30 lieu of cancellation, and subsequently ~~resold in accordance with the provisions of this~~  
31 ~~Chapter.~~ resold.

32 (a1) Notwithstanding anything in this Chapter to the contrary, ~~in the case of short-~~  
33 ~~term notes or other obligations (including commercial paper) maturing not later than one~~  
34 ~~year from their date or dates,~~ the Local Government Commission of North Carolina and  
35 the issuer (i) may authorize officers or employees of either or both thereof to fix principal  
36 amounts, maturity dates, interest rates or methods of fixing interest rates, interest  
37 payment dates, denominations, redemption rights of the issuer or holder, places of  
38 payment of principal and interest, and purchase prices of any ~~such notes or other~~  
39 ~~obligations, bonds,~~ bonds, to sell and deliver any ~~such notes~~ bonds in whole or in part at one  
40 time or from time to time, and to fix other matters and procedures necessary to complete  
41 the transactions authorized, all subject to such limitations as may be prescribed by the  
42 Local Government Commission with the approval of the issuer, (ii) may approve  
43 insurance contracts, agreements for lines of credit, letters of credit, commitments to

1 purchase ~~notes or other obligations~~ bonds and any other transactions to provide security  
2 to assure, timely payment of ~~notes or other obligations, bonds,~~ (iii) may employ one or  
3 more persons or firms to assist in the sale of the ~~notes or other obligations~~ bonds and  
4 appoint one or more banks, trust companies or any dealer in ~~notes or other obligations,~~  
5 bonds, within or without the State, as depository for safekeeping and as agent for the  
6 delivery and payment of the ~~notes or other obligations, bonds,~~ and (iv) may provide for  
7 the payment of fees and expenses in connection with the foregoing either from the  
8 proceeds of the ~~notes or other obligations~~ bonds or from other available funds.

9 (b) The proceeds of the bonds of each issue shall be used solely for the purposes  
10 for which such bonds have been issued, and shall be disbursed in such manner and under  
11 such restrictions, if any, as the governing board of the issuer may provide in the  
12 resolution authorizing the issuance of such bonds or in any trust agreement securing the  
13 same. The municipality or joint agency may issue interim receipts or temporary bonds,  
14 with or without coupons, exchangeable for definitive bonds when such bonds shall have  
15 been executed and are available for delivery. The municipality or joint agency may also  
16 provide for the replacement of any bonds which shall have become mutilated or shall  
17 have been destroyed or lost.

18 (c) Bonds may be issued under the provisions of this Chapter without obtaining,  
19 except as otherwise expressly provided in G.S. 159B-24 of this Chapter, the consent of  
20 the State or of any political subdivision, or of any agency, commission or instrumentality  
21 of either thereof, and without any other approvals, proceedings or the happening of any  
22 conditions or things other than those approvals, proceedings, conditions or things which  
23 are specifically required by this Chapter and the provisions of the resolution authorizing  
24 the issuance of such bonds or the trust agreement securing the same."

25 Sec. 15. G.S. 159B-16 reads as rewritten:

26 "**§ 159B-16. Resolution or trust agreement.**

27 In the discretion of the governing board of the issuer, any bonds issued under the  
28 provisions of this Chapter may be secured by a trust agreement by and between the issuer  
29 and a corporate trustee, which may be any trust company or bank having the powers of a  
30 trust company within or without the State. Such trust agreement or the resolution  
31 providing for the issuance of such bonds may contain such provisions for protecting and  
32 enforcing the rights and remedies of the bondholders and of the trustee as may be  
33 reasonable and proper and not in violation of law, and may restrict the individual right of  
34 action by bondholders. The trust agreement or the resolution providing for the issuance of  
35 such bonds may contain covenants including, but not limited to, the following:

- 36 (1) The pledge of all or any part of the revenues derived or to be derived  
37 from the project or projects to be financed by the bonds, or from the sale  
38 or other disposition of power and energy and services and facilities  
39 related to the utilization of power and energy, or from other services or  
40 activities, or from contributions and advances from members of a joint  
41 agency, or from the electric system or other facilities of a municipality  
42 or a joint agency.

- 1 (2) The rents, rates, fees and charges to be established, maintained, and  
2 collected, and the use and disposal of revenues, gifts, grants and funds  
3 received or to be received by the municipality or joint agency.
- 4 (3) The setting aside of reserves and the investment, regulation and  
5 disposition thereof.
- 6 (4) The custody, collection, securing, investment, and payment of any  
7 moneys held for the payment of bonds.
- 8 (5) Limitations or restrictions on the purposes to which the proceeds of sale  
9 of bonds then or thereafter to be issued may be applied.
- 10 (6) Limitations or restrictions on the issuance of additional bonds; the terms  
11 upon which additional bonds may be issued and secured; or the  
12 refunding of outstanding or other bonds.
- 13 (7) The procedure, if any, by which the terms of any contract with  
14 bondholders may be amended, the percentage of bonds the bondholders  
15 of which must consent thereto, and the manner in which such consent  
16 may be given.
- 17 (8) Events of default and the rights and liabilities arising thereupon, the  
18 terms and conditions upon which bonds issued under this Chapter shall  
19 become or may be declared due before maturity, and the terms and  
20 conditions upon which such declaration and its consequences may be  
21 waived.
- 22 (9) The preparation and maintenance of a budget.
- 23 (10) The retention or employment of consulting engineers, independent  
24 auditors, and other technical consultants.
- 25 (11) Limitations on or the prohibition of free service to any person, firm or  
26 corporation, public or private.
- 27 (12) The acquisition and disposal of property, provided that no project or  
28 part thereof shall be mortgaged by such trust agreement or resolution.
- 29 (13) Provisions for insurance and for accounting reports and the inspection  
30 and audit thereof.
- 31 (14) The continuing operation and maintenance of the ~~project~~project or  
32 other facilities.
- 33 (15) For bonds that are not issued to pay the cost of a project, the pledge,  
34 assignment, mortgage, or grant of a security interest in any real or  
35 personal property or interest in real or personal property, including the  
36 pledge, assignment, or grant of a security interest in money, rents,  
37 charges, or other revenues or proceeds derived by the joint agency from  
38 the sale of property, from insurance, or from a condemnation award. In  
39 the event of default on a bond secured by a pledge, assignment,  
40 mortgage, or grant of a security interest, the rights of the bond holders  
41 and the liabilities arising from the default shall be limited, except to the  
42 extent provided in a pledge of revenues, to the specific property or  
43 interest in property pledged, assigned, or mortgaged or in which a



1 security interest was granted to secure the bonds, and no claim for any  
2 deficiency shall be made nor any deficiency judgment entered as a result  
3 of the pledge, assignment, mortgage, or grant of a security interest in the  
4 property or the interest in property."

5 Sec. 16. G.S. 159B-17 reads as rewritten:

6 **"§ 159B-17. Revenues.**

7 (a) A municipality is hereby authorized to fix, charge and collect rents, rates, fees  
8 and charges for electric power and energy and other services, facilities and commodities  
9 sold, furnished or supplied through the facilities of its electric system or its interest in any  
10 joint project. For so long as any bonds of a municipality are outstanding and unpaid, the  
11 rents, rates, fees and charges shall be so fixed as to provide revenues sufficient to pay all  
12 costs of and charges and expenses in connection with the proper operation and  
13 maintenance of its electric system, and its interest in any joint project, and all necessary  
14 repairs, replacements or renewals thereof, to pay when due the principal of, premium, if  
15 any, and interest on all bonds and other evidences of indebtedness payable from said  
16 revenues, to create and maintain reserves as may be required by any resolution or trust  
17 agreement authorizing and securing bonds, to pay when due the principal of, premium, if  
18 any, and interest on all general obligation bonds heretofore or hereafter issued to finance  
19 additions, improvements and betterments to its electric system, and to pay any and all  
20 amounts which the municipality may be obligated to pay from said revenues by law or  
21 contract.

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

34 (c) Any pledge of revenues, securities or other moneys made by a municipality,  
35 joint agency or joint municipal assistance agency pursuant to this Chapter shall be valid  
36 and binding from the date the pledge is made. The revenues, securities, and other moneys  
37 so pledged and then held or thereafter received by the municipality, joint agency or joint  
38 municipal assistance agency or any fiduciary shall immediately be subject to the lien of  
39 the pledge without any physical delivery thereof or further act, and the lien of the pledge  
40 shall be valid and binding as against all parties having claims of any kind in tort, contract,  
41 or otherwise against the municipality, joint agency or joint municipal assistance agency  
42 without regard to whether such parties have notice thereof. The resolution or trust  
43 agreement or any financing statement, continuation statement or other instrument by

1 which a pledge of revenues, securities or other moneys is created need not be filed or  
2 recorded in any manner."

3 Sec. 17. G.S. 159B-18 reads as rewritten:

4 **"§ 159B-18. Trust funds; investment authority.**

5 (a) Notwithstanding any other provisions of law to the contrary, all moneys  
6 received pursuant to the authority of this Chapter, whether as proceeds from the sale of  
7 bonds or as revenues, shall be deemed to be trust funds to be held and applied solely as  
8 provided in this Chapter. The resolution authorizing the bonds of any issue or the trust  
9 agreement securing such bonds may provide that any of such moneys may be temporarily  
10 invested and reinvested pending the disbursements thereof in such securities and other  
11 investments as shall be provided in such resolution or trust agreement, and shall provide  
12 that any officer with whom, or any bank or trust company with which, such moneys shall  
13 be deposited shall ~~act as trustee of such moneys and shall~~ hold and apply the same for the  
14 purposes hereof, subject to such regulation as this Chapter and such resolution or trust  
15 agreement may provide.

16 (b) Any moneys received pursuant to the authority of this Chapter and any other  
17 moneys available to a joint agency for investment may be invested:

18 (1) As provided in subsection (a) of this section;

19 (2) As provided in G.S. 159-30, except that:

20 a. A joint agency may also invest, in addition to the obligations  
21 enumerated in G.S. 159-30(c)(2), in bonds, debentures, notes,  
22 participation certificates, or other evidences of indebtedness  
23 issued, or the principal of and the interest on which are  
24 unconditionally guaranteed, whether directly or indirectly, by any  
25 agency or instrumentality of, or corporation wholly owned by,  
26 the United States of America.

27 b. For purposes of G.S. 159-30(c)(12), a joint agency may also  
28 enter into repurchase agreements with respect to, in addition to  
29 the obligations enumerated in G.S. 159-30(c)(12):

30 1. Obligations of the Federal Financing Bank, the Federal  
31 Farm Credit Bank, the Bank for Cooperatives, the Federal  
32 Intermediate Credit Bank, the Federal Land Banks, the  
33 Federal Home Loan Banks, the Federal Home Loan  
34 Mortgage Corporation, the Federal National Mortgage  
35 Association, the Government National Mortgage  
36 Association, the Federal Housing Administration, the  
37 Farmers Home Administration, and the United States  
38 Postal Service;

39 2. Bonds, debentures, notes, participation certificates, or  
40 other evidences of indebtedness issued, or the principal of  
41 and the interest on which are unconditionally guaranteed,  
42 whether directly or indirectly, by any agency or

- 1 instrumentality of, or corporation wholly owned by, the  
2 United States of America;
- 3 3. Mortgage-backed pass-through securities guaranteed by  
4 the Government National Mortgage Association, the  
5 Federal Home Loan Mortgage Corporation, or the Federal  
6 National Mortgage Association;
- 7 4. Direct or indirect obligations which are collateralized by  
8 or represent beneficial ownership interests in mortgage-  
9 backed pass-through securities guaranteed by the  
10 Government National Mortgage Association, the Federal  
11 Home Loan Mortgage Corporation, or the Federal  
12 National Mortgage Association; and
- 13 5. Direct or indirect obligations, trust certificates, or other  
14 similar instruments which are both: (i) guaranteed by the  
15 Government National Mortgage Association, the Federal  
16 Home Loan Mortgage Corporation, or the Federal  
17 National Mortgage Association; (ii) collateralized by or  
18 represent beneficial ownership interests in mortgage-  
19 backed pass-through securities which are guaranteed by  
20 the Government National Mortgage Association, the  
21 Federal Home Loan Mortgage Corporation, or the Federal  
22 National Mortgage Association, including, but not limited  
23 to, Real Estate Mortgage Investment Conduit Certificates;  
24 and (iii) for purposes of the second proviso of G.S. 159-  
25 30(c)(12)a., the financial institution serving either as  
26 trustee or as fiscal agent for a joint agency holding the  
27 obligations subject to the repurchase agreement may also  
28 be the provider of the repurchase agreement if the  
29 obligations that are subject to the repurchase agreement  
30 are held in trust by the trustee or fiscal agent for the  
31 benefit of the joint agency;
- 32 (3) In mortgage-backed pass-through securities guaranteed by the  
33 Government National Mortgage Association, the Federal Home Loan  
34 Mortgage Corporation, or the Federal National Mortgage Association;
- 35 (4) In direct or indirect obligations which are collateralized by or represent  
36 beneficial ownership interests in mortgage-backed pass-through  
37 securities guaranteed by the Government National Mortgage  
38 Association, the Federal Home Loan Mortgage Corporation, or the  
39 Federal National Mortgage Association; and
- 40 (5) In direct or indirect obligations, trust certificates, or other similar  
41 instruments which are (i) guaranteed by the Government National  
42 Mortgage Association, the Federal Home Loan Mortgage Corporation,  
43 or the Federal National Mortgage Association, and (ii) collateralized by

1 or represent beneficial ownership interests in mortgage-backed pass-  
2 through securities which are guaranteed by the Government National  
3 Mortgage Association, the Federal Home Loan Mortgage Corporation,  
4 or the Federal National Mortgage Association, including, but not limited  
5 to, Real Estate Mortgage Investment Conduit Certificates."

6 Sec. 18. G.S. 159B-24 reads as rewritten:

7 **"§ 159B-24. Approval and sale of bonds.**

8 Prior to the acquisition or the commencement of construction of any project  
9 consisting of a system or facilities for the generation of power and energy which is to be  
10 financed by the issuance of bonds under the provisions of this Chapter, the participating  
11 municipalities or joint agency, as the case may be, shall first obtain a certificate of public  
12 convenience and necessity and, in the same proceeding, the approval required by G.S.  
13 159B-4 hereof, in the case of the participating municipalities, or the approval required by  
14 G.S. 159B-11 hereof, in the case of a joint agency, from the North Carolina Utilities  
15 Commission under such rules, regulations and procedures as the Commission may  
16 prescribe.

17 No municipality or joint agency shall issue any bonds pursuant to this Chapter unless  
18 and until, and only to the extent that, the issuance of such bonds is approved by the Local  
19 Government Commission. A participating municipality or joint agency shall file with the  
20 secretary of the Local Government Commission an application for Commission approval  
21 of the issuance of the bonds upon such form as the said Commission may prescribe,  
22 which form shall provide for the submission of such information as the secretary may  
23 require concerning the proposed bond issue, the details thereof and the security therefor.  
24 Before he accepts the application, the secretary may require the governing board or its  
25 representatives to attend a preliminary conference at which time the secretary and his  
26 deputies may informally discuss the details of the proposed issue and the security  
27 therefor.

28 After an application in proper form has been filed, and after a preliminary conference  
29 if one is required, the secretary shall notify the municipality or joint agency in writing  
30 that the application has been filed and accepted for submission to the Commission. The  
31 secretary's statement shall be conclusive evidence that the municipality or joint agency,  
32 as the case may be, has complied with the requirements of this section with respect to the  
33 filing of an application for approval by the said Local Government Commission.

34 In determining whether a proposed bond issue shall be approved, the Commission  
35 may consider:

- 36 (1) The municipality's or joint agency's debt management procedures and  
37 policies.
- 38 (2) Whether the municipality or joint agency is in default with respect to  
39 any of its debt service obligations.
- 40 (3) Whether, based upon feasibility reports submitted to it, the probable  
41 revenues of the project to be financed or the revenues of the  
42 municipality's electric system, as the case may be, will be sufficient to  
43 service the proposed bonds.

1 The Commission may inquire into and give consideration to any other matters that it  
2 may believe to have a bearing on whether the issue should be approved except matters  
3 which are expressly required by the provisions of this Chapter to be determined by the  
4 North Carolina Utilities Commission.

5 The Commission shall approve the application if, upon the information and evidence  
6 it receives, it finds and determines:

- 7 (1) That, based upon engineering studies and feasibility reports submitted to  
8 it, the principal amount of the proposed bonds will be adequate and not  
9 excessive for the proposed purpose of the issue.
- 10 (2) That the municipality's or joint agency's debt management procedures  
11 and policies are good, or that reasonable assurances have been given  
12 that its debt will henceforth be managed in strict compliance with law.
- 13 (3) That the requirements of this Chapter with respect to the issuance of the  
14 bonds and the details thereof and security therefor have been, or will be,  
15 satisfied.
- 16 (4) That the issuance of the proposed bonds will effectuate the purposes and  
17 policies of this Chapter.

18 After considering an application, the Local Government Commission shall enter its  
19 order either approving or denying the application. An order approving an issue shall not  
20 be regarded as an approval of the legality of the bonds in any respect.

21 If the Commission enters an order denying the application, the proceedings under this  
22 section shall be at an end.

23 At any time after the Commission approves an application for the issuance of bonds,  
24 the governing board of the issuer may adopt a bond resolution or enter into a trust  
25 agreement in accordance with the provisions of this Chapter, and may thereafter at one  
26 time, or from time to time, issue the bonds as provided herein.

27 Upon the filing with the Local Government Commission of a resolution of the issuer  
28 requesting that its bonds be sold, such bonds may be sold in such manner, either at public  
29 or private sale, and for such price as the Local Government Commission shall determine  
30 to be for the best interest of the issuer and effectuate best the purposes of this Chapter,  
31 provided that such sale shall be approved by the issuer.

32 Except as herein expressly provided, bonds may be issued and sold under the  
33 provisions of this Chapter without obtaining the approval or consent of any other  
34 department, division, commission, board, bureau or agency of the State, and without any  
35 other proceeding or the happening of any other condition or thing than those proceedings,  
36 conditions or things which are specifically required by this Chapter."

37 Sec. 19. G.S 159B-25 reads as rewritten:

38 "**§ 159B-25. Refunding bonds.**

39 (a) A municipality or joint agency is hereby authorized to provide by resolution  
40 for the issuance of refunding bonds of the municipality or joint agency for the purpose of  
41 refunding any bonds then outstanding which shall have been issued under the provisions  
42 of this Chapter, including the payment of any redemption premium thereon and any  
43 interest accrued or to accrue to the date of redemption of such bonds.

1 (b) In addition to any refunding bonds that may be issued pursuant to subsection  
2 (a), a municipality or joint agency is hereby authorized to provide by resolution for the  
3 issuance of refunding bonds for the purpose of providing for the payment of any interest  
4 accrued or to accrue on any bonds which shall have been issued by the joint agency under  
5 the provisions of ~~the this~~ Chapter; provided, however, ~~that the refunding bonds are issued on~~  
6 ~~or prior to June 30, 1992, and the latest maturity of the refunding bonds issued for a project is no~~  
7 ~~later than the latest maturity of any other bonds issued by the municipality or joint agency, as the~~  
8 ~~case may be, then outstanding for the same project; and provided further that the Local~~  
9 Government Commission shall conduct an evidentiary hearing and upon the evidence  
10 presented find and determine that:

- 11 (1) The municipality's or the joint agency's debt will be managed in strict  
12 compliance with law;
- 13 (2) The requirements of this Chapter with respect to the issuance of its ~~bond~~  
14 bonds and the details thereof and security therefor have been and will be  
15 satisfied;
- 16 (3) The estimated revenues of the project or the revenues of the  
17 municipality's electric system, as the case may be, will be sufficient to  
18 service all bonds to be outstanding after the issuance of the refunding  
19 bonds;
- 20 (4) The application of the proceeds of the refunding bonds will result in the  
21 deferral of recovery in rates of a portion of the capital costs of the  
22 project for a reasonable period of time;
- 23 (5) All capital costs of the project will be recovered over a period ending,  
24 and all bonds issued for the project will mature, no later than the end of  
25 the then estimated useful economic life of the project;
- 26 (6) The issuance of the bonds is in the best interest of the municipality's or  
27 joint agency's electricity customers; and
- 28 (7) The bond rating of the State and its several political subdivisions and  
29 agencies allowed to issue bonds should not be adversely affected.

30 (c) The issuance of such bonds, the maturities and other details thereof, the rights  
31 of the holders thereof, and the rights, duties and obligations of the municipality or joint  
32 agency in respect to the same shall be governed by the provisions of this Chapter which  
33 relate to the issuance of bonds, insofar as such provisions may be appropriate ~~thereof.~~  
34 thereto."

35 Sec. 20. G.S. 159B-27 reads as rewritten:

36 "**§ 159B-27. Taxes; payments in lieu of taxes.**

37 (a) A project jointly owned by municipalities or owned by a joint agency shall be  
38 exempt from property taxes; provided, however, that each municipality possessing an  
39 ownership share of a project, and a joint agency owning a project, shall, in lieu of  
40 property taxes, pay to any governmental body authorized to levy property taxes the  
41 amount which would be assessed as taxes on real and personal property of a project if  
42 such project were otherwise subject to valuation and assessment by the Department of  
43 Revenue. Such payments in lieu of taxes shall be due and shall bear interest if unpaid, as

1 in the cases of taxes on other property. Payments in lieu of taxes made hereunder shall be  
2 treated in the same manner as taxes for purposes of all procedural and substantive  
3 provisions of law. Any administrative building and associated land shall be deemed a  
4 project for purposes of this paragraph.

5 (b) Each municipality having an ownership share in a generation or transmission  
6 project shall pay to the State in lieu of an annual franchise or privilege tax an amount  
7 equal to three and twenty-two hundredths percent (3.22%) of that percentage of all  
8 moneys expended by said municipality on account of its ownership share, including  
9 payment of principal and interest on bonds issued to finance such ownership share, which  
10 is equal to the percentage of such city or town's total entitlement that is used or sold by it  
11 to any person, firm or corporation exempted by law from the payment of the tax on gross  
12 receipts pursuant to G.S. 105-116.

13 (c) In lieu of an annual franchise or privilege tax, each joint agency shall pay to  
14 the State an amount equal to three and twenty-two hundredths percent (3.22%) of the  
15 gross receipts from sales of electric power or energy, less receipts from sales of electric  
16 power or energy to a vendee subject to tax under G.S. 105-116.

17 (d) The State shall distribute to cities and towns which receive electric power and  
18 energy from their ownership share of a project or to which electric power and energy is  
19 sold by a joint agency an amount equal to a tax of three and nine hundredths percent  
20 (3.09%) of all moneys expended by a municipality on account of its ownership share of a  
21 project, including payment of principal and interest on bonds issued to finance such  
22 ownership share, or an amount equal to a tax of three and nine hundredths percent  
23 (3.09%) of the gross receipts from all sales of electric power and energy to such city or  
24 town by a joint agency, as the case may be.

25 (e) The reporting, payment and collection procedures contained in G.S. 105-116  
26 shall apply to the levy herein made.

27 (f) Except as herein expressly provided with respect to jointly owned projects or  
28 projects owned by a joint ~~agency~~ agency, no other property of a municipality used or  
29 useful in the ~~generation, transmission and distribution~~ generation, transmission, distribution, control,  
30 conservation, management, and utilization of electric power and energy shall be subject  
31 to payments in lieu of taxes."

32 Sec. 21. G.S. 159B-29 reads as rewritten:

33 **"§ 159B-29. Dissolution of joint agencies.**

34 Whenever the governing ~~board of commissioners~~ of a joint agency and the governing  
35 boards of its member municipalities shall by resolution or ordinance determine that the  
36 purposes for which the joint agency was formed have been substantially fulfilled and that  
37 all bonds theretofore issued and all other obligations theretofore incurred by the joint  
38 agency have been fully paid or satisfied, ~~such board of commissioners and the governing~~  
39 ~~boards~~ board of the joint agency may by resolution declare the joint agency to be  
40 dissolved. On the effective date of such resolution ~~or ordinance~~, declaring the joint agency  
41 to be dissolved, the title to all funds and other property owned by the joint agency at the  
42 time of such dissolution shall vest in the member municipalities of the joint agency as

1 provided in this Chapter and the bylaws of the joint agency. Notice of such dissolution  
2 shall be filed with the Secretary of State."

3 Sec. 22. G.S. 159B-30.1 reads as rewritten:

4 **"§ 159B-30.1. Additional reports.**

5 Beginning January 1, 1994, and annually thereafter, each joint agency operating under  
6 the authority of Chapter 159B of the General Statutes shall file a report with the Joint  
7 Legislative Utility Review Committee describing the activities of the joint agency carried  
8 out pursuant to the authority granted by G.S. 159B-2, ~~159B-11(19b)~~, 159B-11(19b)a.,  
9 159B-11(19b)b.1., 159B-12 and 159B-17(c). The report shall cover the preceding  
10 calendar year. Each joint agency shall file such additional reports as the Joint Legislative  
11 Utility Review Committee shall request."

12 Sec. 23. G.S. 159B-34 reads as rewritten:

13 **"§ 159B-34. Liability and defense.**

14 (a) No commissioner or officer of any joint agency or ~~municipality~~-municipality, or  
15 member of an executive committee created pursuant to G.S. 159B-10, or person or  
16 persons acting in their ~~behalf~~-behalf, while acting within the scope of their authority, shall  
17 be subject to any personal liability or accountability by reason of his carrying out any of  
18 the powers expressly or impliedly given in this Chapter.

19 (b) The governing board of commissioners of a joint agency may provide for the  
20 defense of a criminal or civil proceeding brought against any current or former  
21 commissioner, member of an executive committee, officer, agent or employee either in  
22 his official or individual capacity, or both, on account of any act done or omission made  
23 in the scope and course of his employment or duty as a commissioner, member of an  
24 executive committee, officer, agent, or employee of the joint agency. The defense may be  
25 provided by the agency by its own counsel, by employing other counsel or by purchasing  
26 insurance which requires that the insurer provide the defense.

27 (c) The governing board of commissioners may appropriate funds for the purpose of  
28 paying all or part of a claim made or any civil judgment entered against any of its current  
29 or former commissioners, members of executive committees, officers, agents or  
30 employees, when such claim is made or such judgment is rendered as damages on  
31 account of any act done or omission made ~~or~~-in the scope and course of his current or  
32 former employment or duty as a commissioner, member of an executive committee,  
33 officer, agent or employee; provided, however, that nothing in this section shall authorize  
34 any joint agency to appropriate funds for the purpose of paying any claim made or civil  
35 judgment entered against any current or former commissioners, members of executive  
36 committees, officers, agents or employees if the board of commissioners finds that  
37 commissioner, member of an executive committee, officer, agent or employee acted or  
38 failed to act because of actual fraud, corruption or actual malice on his part. Any joint  
39 agency may purchase insurance coverage for payment of claims or judgments pursuant to  
40 this section."

41 Sec. 24. G.S. 159B-38 reads as rewritten:

42 **"§ 159B-38. Confidentiality of contract discussions.**



1 Discussions of a proposed or existing contract to which a joint agency may be or is a  
2 party for the construction, ownership, or operation of works, plants, and facilities for or  
3 incident to the generation, transmission, ~~or use~~ distribution, control, conservation,  
4 management, or utilization of electric power and energy or the purchase, sale, exchange,  
5 interchange, wheeling, pooling, transmission, or use of electric power and energy shall be  
6 confidential and information relating to such discussions shall not be a public record  
7 under Chapter 132 of the General Statutes; provided that any contract entered into by or  
8 on behalf of a joint agency as defined by G.S. 159B-3 shall be a public record unless  
9 otherwise exempted by law."

10 Sec. 25. G.S. 159B-42 reads as rewritten:

11 **"§ 159B-42. Joint municipal assistance agencies.**

12 The purpose of this Article is to authorize joint agencies or municipalities to form  
13 one or more joint municipal assistance agencies which shall be empowered to provide aid  
14 and assistance to municipalities in the construction, ownership, maintenance, expansion  
15 and operation of their electric systems, to do such other acts and things as hereinafter  
16 provided and to carry out the powers and responsibilities hereinafter granted in this  
17 Chapter. It shall also be the purpose of a joint municipal assistance agency to provide aid  
18 and assistance to any joint agency in the exercise of its respective powers and functions.  
19 The term 'provide aid and assistance' shall be liberally construed."

20 Sec. 26. G.S. 159B-43 reads as rewritten:

21 **"§ 159B-43. Joint municipal assistance agencies authorized.**

22 (a) Any two or more ~~municipalities~~ joint agencies, or any two or more  
23 municipalities, may organize a joint municipal assistance agency, which shall be a public  
24 body and body corporate and politic. Any joint agency or municipality is hereby  
25 authorized to become a member of any such joint municipal assistance agency upon a  
26 determination, by resolution or ordinance of its governing board, that economies,  
27 efficiencies and other benefits might be achieved from participation in such an agency.

28 The resolution or ordinance determining it desirable for a joint agency or municipality  
29 to become a member of a joint municipal assistance agency (which need not prescribe in  
30 detail the basis for the determination) shall set forth the names of the joint agencies or  
31 municipalities which are proposed to be initial members of the joint municipal assistance  
32 agency. The governing board of the joint agency or municipality shall thereupon by  
33 ordinance or resolution appoint one commissioner and up to two alternate commissioners  
34 of the joint municipal assistance agency who may, at the discretion of the governing  
35 board, be an officer or employee of the joint agency or municipality. If two alternate  
36 commissioners are appointed, the governing board shall designate them as first or second  
37 alternate commissioner.

38 Any two or more commissioners so named may file with the Secretary of State an  
39 application signed by them setting forth (i) the names of all the proposed member  
40 joint agencies or municipalities; (ii) the name and official residence of each of the  
41 commissioners so far as known to them; (iii) a certified copy of the appointment  
42 evidencing their right to office; (iv) a statement that each governing board of each  
43 respective joint agency or municipality appointing a commissioner has made the

1 aforesaid determination; (v) the desire that a joint municipal assistance agency be  
2 organized as a public body and a body corporate and politic under this Chapter; and (vi)  
3 the name which is proposed for the joint municipal assistance agency.

4 The application shall be subscribed and sworn to by such commissioners before an  
5 officer or officers authorized by the laws of the State to administer and certify oaths.

6 The Secretary of State shall examine the application and, if he finds that the name  
7 proposed for the joint municipal assistance agency is not identical with that of any other  
8 corporation of this State or of any agency or instrumentality thereof, or so nearly similar  
9 as to lead to confusion and uncertainty, he shall receive and file it and shall record it in an  
10 appropriate book of record in his office.

11 When the application has been made, filed and recorded as herein provided, the joint  
12 municipal assistance agency shall constitute a public body and a body corporate and  
13 politic under the name proposed in the application. The Secretary of State shall make and  
14 issue to the commissioners executing the application a certificate of incorporation  
15 pursuant to this Chapter under the seal of the State, and shall record the same with the  
16 application. The certificate shall set forth the names of the member municipalities.

17 In any suit, action or proceeding involving the validity or enforcement of, or relating  
18 to, any contract of the joint municipal assistance agency, the joint municipal assistance  
19 agency, in the absence of establishing fraud in the premises, shall be conclusively  
20 deemed to have been established in accordance with the provisions of this Chapter upon  
21 proof of the issuance of the aforesaid certificate by the Secretary of State. A copy of such  
22 certificate or of any new or supplemental certificate hereinafter provided for, duly  
23 certified by the Secretary of State, shall be admissible in evidence in any suit, action or  
24 proceeding, and shall be conclusive proof of the filing and contents thereof.

25 Notice of the issuance of such certificate shall be given to all of the proposed member  
26 joint agencies or municipalities by the Secretary of State. If a commissioner of any such  
27 joint agency or municipality has not signed the application to the Secretary of State and  
28 such joint agency or municipality does not notify the Secretary of State of the  
29 appointment of a commissioner within 60 days after receipt of such notice, such joint  
30 agency or municipality shall be deemed to have elected not to be a member of the joint  
31 municipal assistance agency. As soon as practicable after the expiration of such 60-day  
32 period, the Secretary of State shall issue a new certificate of incorporation, if necessary,  
33 setting forth the names of those joint agencies or municipalities which have elected to  
34 become members of the joint municipal assistance agency. The failure of any proposed  
35 member to become a member shall not affect the validity of the corporate existence of the  
36 joint municipal assistance agency.

37 (b) After the creation of a joint municipal assistance agency, any other joint  
38 agency (if organized by joint agencies) or municipality (if organized by municipalities)  
39 may become a member thereof upon application to such joint municipal assistance  
40 agency after the adoption of a resolution or ordinance by the governing board of the joint  
41 agency or municipality setting forth the determination and finding prescribed above for  
42 the original members and authorizing said municipality to become a member and  
43 appointing a one commissioner, and with the consent of a majority of the board of

1 commissioners of the joint municipal assistance agency. Any joint agency or municipality  
2 may withdraw from a joint municipal assistance agency, provided, however, that all  
3 obligations incurred by a joint agency or municipality while it was a member shall remain  
4 in full force and effect. Notice that a joint agency or municipality has been added to or  
5 withdrawn from membership in the joint municipal assistance agency shall be filed with  
6 the Secretary of State, and the Secretary of State shall thereupon issue a new or  
7 supplemental certificate of incorporation setting forth the names of all members of the  
8 joint municipal assistance agency. Additions of new members or withdrawal of members  
9 shall not affect the validity of the corporate existence of the joint municipal assistance  
10 agency.

11 (c) The joint municipal assistance agency ~~shall~~ may be governed by a board of  
12 commissioners appointed as provided in ~~subsection (a) above by the respective governing~~  
13 ~~boards of the municipalities which are members of the joint municipal assistance agency.~~  
14 subsections (a) and (b) of this section. It shall not be necessary to notify the Secretary of  
15 State of the appointment of any commissioners following the notifications referred to in  
16 subsections (a) and (b) ~~above.~~ of this section. Each commissioner shall have one vote  
17 and shall serve at the pleasure of the governing board by which he was appointed. Each  
18 appointed commissioner before entering upon his duties shall take and subscribe to an  
19 oath before some person authorized by law to administer oaths to execute the duties of  
20 his office faithfully and impartially, and a record of each such oath shall be filed with the  
21 governing board of the appointing joint agency or municipality and spread upon its  
22 minutes. The governing board of each of the joint agencies or municipalities may appoint  
23 up to two alternate commissioners to act in lieu of its appointed commissioner when the  
24 appointed commissioner is unable for any reason to attend meetings of the board of  
25 commissioners or any committee thereof, and the governing board shall designate them  
26 as first or second alternate commissioner. Each alternate commissioner shall serve at the  
27 pleasure of the governing board by which he is appointed and shall take, subscribe to and  
28 file an oath in the same manner as prescribed for regularly appointed commissioners.  
29 Such alternate commissioner when acting in lieu of the regularly appointed commissioner  
30 shall be deemed to be the commissioner representing such joint agency or municipality,  
31 and shall have the rights, powers and authority of the regularly appointed commissioner,  
32 other than such commissioner's position as an officer, director or member of the  
33 executive committee. A certificate entered into the minutes of the board of  
34 commissioners of a joint agency by the clerk or other custodian of the minutes and  
35 records of the governing body of a municipality, appointing commissioners and alternate  
36 commissioners and reciting their appointments, shall constitute conclusive evidence of  
37 their appointment. All powers, functions, rights and privileges of the joint municipal  
38 assistance agency shall be exercised or delegated by the board of commissioners.

39 (d) The board of commissioners of the joint municipal assistance agency shall  
40 annually elect one of the commissioners as president, another as vice president, and  
41 another person or persons, who may but need not be commissioners, as treasurer,  
42 secretary, and, if desired, assistant secretary or secretaries and assistant treasurer. The  
43 office of treasurer or assistant treasurer may be held by the secretary or any assistant

1 secretary. The board of commissioners may also appoint and prescribe the duties of such  
2 additional officers as it deems necessary. The secretary or any assistant secretary of the  
3 joint municipal assistance agency shall keep a record of the proceedings of the joint  
4 municipal assistance agency, and the secretary shall be the custodian of all records,  
5 books, documents and papers filed with the joint municipal assistance agency, the minute  
6 book or journal of the joint municipal assistance agency and its official seal. Either the  
7 secretary or any assistant secretary of the joint municipal assistance agency may cause  
8 copies to be made of all minutes and other records and documents of the joint municipal  
9 assistance agency and may give certificates under the official seal of the joint municipal  
10 assistance agency to the effect that such copies are true copies, and all persons dealing  
11 with the joint municipal assistance agency may rely upon such certificates.

12 (e) Fifty-one percent (51%) of the commissioners of a joint municipal assistance  
13 agency then in office shall constitute a quorum, and the commissioners may by written  
14 consent executed before or after any meeting waive notice and all other formalities  
15 incident to the calling or conduct of the same. Meetings of the commissioners may be  
16 held at any place within the State or any state contiguous to the State. A vacancy in the  
17 board of commissioners of the joint municipal assistance agency shall not impair the right  
18 of a quorum to exercise all the rights and perform all the duties of the joint municipal  
19 assistance agency. Any action taken by the joint municipal assistance agency under the  
20 provisions of this Chapter may be authorized by resolution at any regular or special  
21 meeting, and each such resolution ~~shall~~may take effect immediately and need not be  
22 published or posted. Except as specifically provided by the bylaws, a majority of the  
23 votes of the commissioners present shall be necessary and sufficient to take any action or  
24 to pass any resolution.

25 (f) The board of commissioners of the joint municipal assistance agency may, in  
26 its bylaws, provide for a board of directors of the joint municipal assistance agency to be  
27 selected from the commissioners and alternate commissioners. The board of directors  
28 shall have and exercise such of the powers and authority of the board of commissioners  
29 during the intervals between the board of commissioners' meetings as shall be prescribed  
30 in the bylaws, rules, motions and resolutions of the board of commissioners. The terms of  
31 office of the members of the board of directors and the method of filling vacancies  
32 therein shall be fixed by the bylaws of the board of commissioners of the joint municipal  
33 assistance agency. The bylaws of the joint municipal assistance agency shall provide that  
34 the officers of the board of commissioners elected pursuant to subsection (d) of this  
35 section must also serve on the board of directors and hold the same offices thereon.

36 (g) The board of commissioners may also provide, in its bylaws or otherwise, that  
37 the board of directors shall create an executive committee of the board of directors  
38 composed of the officers of the board of directors, together with such other members of  
39 the board of directors as may be prescribed and that such executive committee shall have  
40 and shall exercise such of the powers and authority of the board of directors during the  
41 intervals between that board's meetings as shall be prescribed in the bylaws of the joint  
42 municipal assistance agency or in the rules or resolutions of the board of directors.

1 (h) The board of commissioners, board of directors and executive committee may  
2 provide or adopt methods and procedures consistent with other applicable laws for the  
3 calling or conducting of meetings or the taking of any action.

4 (i) No commissioner or director of a joint municipal assistance agency shall  
5 receive any compensation for the performance of his or her duties hereunder, provided,  
6 however, that each commissioner and director may be paid his or her necessary expenses  
7 incurred while engaged in the performance of such duties."

8 Sec. 27. Chapter 159B of the General Statutes is amended by adding a new  
9 subsection to read:

10 **"§ 159B-43.1. Alternative to board of commissioners.**

11 (a) In lieu of the provisions of G.S. 159B-43(c) through (i), a joint municipal  
12 assistance agency organized by two or more joint agencies, by resolutions adopted by  
13 each of those joint agencies, may be governed by an executive committee created  
14 pursuant to the provisions of G.S. 159B-10. In that case, the commissioners of the joint  
15 municipal assistance agency appointed pursuant to the provisions of G.S. 159B-43(a) and  
16 (b) shall adopt a resolution substantially identical to the resolutions adopted by the joint  
17 agencies creating the executive committee. The terms of office, methods of filling  
18 vacancies, and such other matters involving the executive committee shall be as set forth  
19 in those resolutions.

20 (b) In connection with a joint municipal assistance agency governed pursuant to  
21 the provisions of subsection (a) of this section, member municipalities of that joint  
22 municipal assistance agency which are not members of the joint agencies organizing that  
23 joint municipal assistance agency and nonmunicipal members, as defined in G.S. 159B-  
24 50, may elect members to the executive committee pursuant to those procedures as they  
25 agree upon among themselves, but subject to the following: if the number of the member  
26 municipalities and nonmunicipal members is seven or less, those municipalities and  
27 nonmunicipal members, acting jointly, may appoint one member to the executive  
28 committee, and if the number of the member municipalities and nonmunicipal members  
29 is more than seven, those member municipalities and nonmunicipal members, acting  
30 jointly, may appoint two members to the executive committee.

31 (c) Members of the executive committee appointed by the member municipalities  
32 and nonmunicipal members, and members of any subcommittee created by those member  
33 municipalities and nonmunicipal members, may receive compensation, and be paid  
34 expenses, for the performance of their duties as determined by the member municipalities  
35 and nonmunicipal members appointing those members. However, for any member of an  
36 executive committee who is an employee of a member municipality or nonmunicipal  
37 member, a payment in lieu of any compensation shall be made to the member  
38 municipality or nonmunicipal member for distribution to the executive committee  
39 member in the manner and amount, if any, it deems appropriate."

40 Sec. 28. G.S. 159B-44(8) reads as rewritten:

41 "(8) To acquire and maintain an administrative office building or office at  
42 such place or places as it may determine, which building or office may  
43 be used or owned together with any joint agency or agencies,

1 municipalities, corporations, associations or persons under such terms  
2 and provisions for sharing costs and otherwise as may be determined;".

3 Sec. 29. G.S. 159B-45 reads as rewritten:

4 **"§ 159B-45. Dissolution.**

5 Whenever the governing board of a joint municipal assistance agency and the  
6 governing boards of its member joint agencies or municipalities shall by resolution or  
7 ordinance determine that the purposes for which the joint municipal assistance agency  
8 was formed have been substantially fulfilled and that all obligations incurred by the joint  
9 municipal assistance agency have been fully paid or satisfied, ~~such the governing boards~~  
10 ~~may declare~~ board of the joint municipal assistance agency may by resolution declare the  
11 joint municipal assistance agency to be dissolved. On the effective date of such resolution  
12 ~~or ordinance, declaring the joint agency to be dissolved,~~ the title to all funds and other  
13 property owned by the joint municipal assistance agency at the time of such dissolution  
14 shall vest in the members of the joint municipal assistance agency as provided in this  
15 Chapter and the bylaws of the joint municipal assistance agency. Notice of such  
16 dissolution shall be filed with the Secretary of State."

17 Sec. 30. G.S. 159B-46 reads as rewritten:

18 **"§ 159B-46. Reports, liability, and personnel.**

19 (a) Each joint municipal assistance agency shall, following the closing of each  
20 fiscal year, submit an annual report of its activities for the preceding year to the  
21 governing boards of its members. Each such report shall set forth an operating and  
22 financial statement covering the operations of the joint municipal assistance agency  
23 during such year. The joint municipal assistance agency shall cause an audit of its books  
24 of record and accounts to be made at least once in each year by independent certified  
25 public accountants.

26 (b) No commissioner, alternate commissioner or director or officer of any joint  
27 municipal assistance ~~agency or officer of any municipality agency, member of an executive~~  
28 committee created pursuant to G.S. 159B-10, officer of any joint agency or municipality,  
29 or person or persons acting in their behalf, while acting within the scope of his authority,  
30 shall be subject to any personal liability or accountability by reason of his carrying out  
31 any of the powers expressly or impliedly given in this Article.

32 (c) Each municipality, joint agency and joint municipal assistance agency shall be  
33 severally liable for its own acts or omissions and not jointly or severally liable for the  
34 acts, omissions, or obligations of others, including other municipalities.

35 (d) In no event shall any municipality or joint agency be liable or responsible for  
36 any acts, omissions or obligations of any joint municipal assistance agency or any of its  
37 officers, members of an executive committee, employees or agents; provided, however,  
38 that contracts between the joint municipal assistance agency and one or more  
39 municipalities or one or more joint agencies may expressly provide for the imputation of  
40 or indemnification for any liability of one party thereto by the other, or for the  
41 assumption of any obligation of one party thereto by the other.

42 (e) Personnel employed or appointed by a municipality and performing services  
43 for or on behalf of a joint municipal assistance agency shall have the same authority,

1 rights, privileges and immunities (including coverage under the workers' compensation  
2 laws) which the officers, agents and employees of the appointing municipality enjoy  
3 within the territory of that municipality, whether within or without the territory of the  
4 appointing municipality, when they are acting within the scope of their authority or in the  
5 course of their employment.

6 (f) Personnel employed or appointed by a joint municipal assistance agency shall  
7 be qualified for participation in the North Carolina Local Government Employees'  
8 Retirement System with the same rights, privileges, obligations and responsibilities as  
9 they would have if they were employees of a municipality.

10 (g) The offices of commissioner, alternate commissioner, officer, director and  
11 member of the executive committee of a joint municipal assistance agency are hereby  
12 declared to be offices which may be held by the holder of any office, place of trust or  
13 profit in addition to and concurrently with those offices permitted by G.S. 128-1.1 and  
14 other offices permitted by other General Statute."

15 Sec. 31. G.S. 159B-47 reads as rewritten:

16 "**§ 159B-47. Defense.**

17 (a) The board of commissioners of a joint municipal assistance agency may  
18 provide for the defense of a criminal or civil proceeding brought against any current or  
19 former commissioner, member of an executive committee, director, officer, agent or  
20 employee either in his official or individual capacity, or both, on account of any act done  
21 or omission made in the scope and course of his employment or duty as a commissioner,  
22 member of an executive committee, director, officer, agent or employee of the joint  
23 municipal assistance agency. The defense may be provided by the agency by its own  
24 counsel, by employing other counsel or by purchasing insurance which requires that the  
25 insurer provide the defense.

26 (b) The board of commissioners may appropriate funds for the purpose of paying  
27 all or part of a claim made or any civil judgment entered against any of its current or  
28 former commissioners, members of executive committees, directors, officers, agents or  
29 employees, when such claim is made or such judgment is rendered as damages on  
30 account of any act done or omission made or any act allegedly done or omission  
31 allegedly made in the scope and course of his current or former employment or duty as a  
32 commissioner, member of an executive committee, director, officer, agent or employee;  
33 provided, however, that nothing in this section shall authorize any joint municipal  
34 assistance agency to appropriate funds for the purpose of paying any claim made or civil  
35 judgment entered against any current or former commissioners, members of executive  
36 committees, directors, officers, agents or employees if the board of commissioners finds  
37 that commissioner, member of an executive committee, director, officer, agent or  
38 employee acted or failed to act because of actual fraud, corruption or actual malice on his  
39 part. Any joint municipal assistance agency may purchase insurance coverage for  
40 payment of claims or judgments pursuant to this section."

41 Sec. 32. G.S. 159B-48 reads as rewritten:

42 "**§ 159B-48. Nonmunicipal members; constituent institutions of The University of**  
43 **North Carolina.**

1       Notwithstanding the provisions of Article 1 of Chapter 159B of the General Statutes  
2 or any other provision of law, any constituent institution of The University of North  
3 Carolina, as defined in Article 1 of Chapter 116 of the General Statutes, that owns a  
4 system or facility for the generation, transmission, or distribution of electric power and  
5 energy for public and private use, may become a member of a joint municipal assistance  
6 agency. The ~~Commissioner~~commissioner and one or more alternate ~~Commissioners~~  
7 commissioners designated by any such members shall be appointed by its local governing  
8 board. As a member, the constituent institution has all the rights, privileges, immunities,  
9 powers, authority, and responsibilities of a municipal member of a joint municipal  
10 assistance agency under Article 3 of this Chapter, including, the protection and  
11 immunities granted under Article 3 to those employed, appointed or otherwise acting on  
12 behalf of the constituent institutions, and the power and authority to enter into contracts  
13 and arrangements with a joint municipal assistance agency."

14               Sec. 33. This act becomes effective July 1, 1995.