

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

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SENATE BILL 1463

State and Local Government Committee Substitute Adopted 6/14/00

Short Title: Dare Utility Undergrounding Amendments.

(Local)

Sponsors:

Referred to:

May 25, 2000

A BILL TO BE ENTITLED

AN ACT TO ALLOW DARE COUNTY TO EXPAND THE PURPOSE OF SPECIAL TAX DISTRICTS TO UNDERGROUND ELECTRIC UTILITY LINES SO AS TO ALLOW UNDERGROUNDING OF TELEPHONE AND CABLE TELEVISION LINES.

The General Assembly of North Carolina enacts:

Section 1. Section 1.1 of S.L. 1999-127 reads as rewritten:

"Section 1.1. Authorization to Create Utility District. A county board of commissioners may create one or more Utility Districts for the purpose of raising and expending funds to underground ~~electric~~ electric and telephone utility lines in the district."

Section 2. Section 5.(a) of S.L. 1999-127 reads as rewritten:

"Section 5.(a) Powers. By resolution the board of commissioners of the county, acting ex officio on behalf of the Utility District, may levy a tax of up to ~~one to~~ to:

- (1) One dollar (\$1.00) per month on each residential electric power customer bill for service within the district, and up to five dollars (\$5.00) per month on each commercial or industrial electric power customer bill within the district.

1           (2) One dollar (\$1.00) per month on each residential telephone customer  
2           line for service within the district and up to five dollars (\$5.00) per  
3           month on each commercial or industrial telephone customer line within  
4           the district."

5           Section 3. Section 6 of S.L. 1999-127 reads as rewritten:

6           "Section 6. Use of Funds. The taxes levied under this act, after being expended for  
7           the necessary administrative expenses of the utility district, shall be used only for  
8           undergrounding of ~~electric~~-electric and telephone utility lines within the district. The  
9           budget for the Utility District shall be adopted by the special commission for that district.  
10          The budget shall include funding to pay for the installation of conduit for underground  
11          telephone cable, where required."

12          Section 4. Section 9.(b) of S.L. 1999-127 reads as rewritten:

13          "Section 9.(b) Collection. Every ~~electric~~-utility subject to a tax authorized by this  
14          act shall, on and after the effective date of the levy of the tax, collect the tax. The tax  
15          shall be collected as part of the charge for furnishing ~~electric power~~-service. The tax  
16          shall be stated and charged separately and shall be paid by the purchaser to the utility as  
17          trustee for and on account of the Utility District. The tax shall be added to the sales price  
18          and shall be passed on to the purchaser instead of being borne by the utility. The Utility  
19          District shall design, print, and furnish to all appropriate utilities in the district the  
20          necessary forms for filing returns and instructions to ensure the full collection of the tax.  
21          A utility who collects a tax authorized by this act may deduct from the amount remitted  
22          to the Utility District a discount equal to the discount the State allows the utility for State  
23          sales and use tax. For the purpose of this act, a utility includes a government entity  
24          providing ~~electric~~-service, a cooperative, and any other ~~electric~~-utility. A utility shall  
25          have the same right to suspend or terminate service for nonpayment of the tax that it has  
26          to suspend or terminate service for payment of any other part of the utility bill. ~~The~~  
27          ~~obligation of the utility to pay the tax if the customer has not paid the bill is the same as~~  
28          ~~its liability under G.S. 105-164.4(a)(4a). A utility has no obligation to take any legal~~  
29          action to enforce the collection of taxes under this act. The county or the district may  
30          initiate a collection action in its name and reasonable costs and attorneys' fees may be  
31          awarded to the plaintiff."

32          Section 5. Section 5 of S.L. 1999-127 is amended by adding a new subsection  
33          to read:

34          "Section 5.(d) The board of commissioners may exempt from payment of the tax  
35          any person for whom the payment would work an unreasonable financial hardship in  
36          accordance with criteria established by the board of commissioners."

37          Section 6. Section 5 of S.L. 1999-127 is amended by adding a new subsection  
38          to read:

39          "Section 5.(e) The commission may order any cable television lines (or other utility  
40          lines other than electric or telephone) to be undergrounded when any electric or telephone  
41          line on the same pole is undergrounded."

42          Section 7. S.L. 1999-127 is amended to add new sections to read:

1 "Section 13.(a) The district shall coordinate with affected utilities, municipalities,  
2 and the North Carolina Department of Transportation to facilitate acquisition of rights-of-  
3 way for burial of cable."

4 Section 13.(b) The undergrounding required by this act shall be a coordinated  
5 effort between the utility district, and the affected electric, telephone, and cable television  
6 utilities.

7 Section 14. The State Auditor may perform audits pursuant to Article 5A of  
8 Chapter 147 of the General Statutes to ensure that funds collected by or paid to the utility  
9 district are being managed in accordance with the provisions of this act, and shall  
10 perform an audit at least every two years. The costs of the audit shall be reimbursed to  
11 the State Auditor by the utility district."

12 Section 8. Section 5(c) of S.L. 1999-127 reads as rewritten:

13 "Section 5.(c) The commission may contract with the State of North Carolina,  
14 another local government, or a private entity for carrying out the projects authorized by  
15 this act. Any State, local government, or other entity which carries out projects  
16 authorized by this act, or otherwise takes action affecting utilities pursuant to the terms of  
17 this act shall remain fully liable for any damages to utility company property. Any  
18 private sector entity with which the district wishes to contract to carry out projects  
19 authorized by this act must be approved in writing in advance by each utility whose  
20 facilities will be affected and must carry sufficient insurance to cover any damages  
21 caused."

22 Section 9. Section 4(a) of S.L. 1999-127 reads as rewritten:

23 "Section 4.(a) Governing Board. Each Utility District shall be governed by a  
24 special commission consisting of one person appointed by the board of commissioners of  
25 that county, one nonvoting member appointed by the board of commissioners of the  
26 county who has been recommended by each local telephone exchange carries licensed to  
27 do business in North Carolina and providing service in that county, one nonvoting  
28 member appointed by the board of commissioners of the county who has been  
29 recommended by each electric utility provider in the county, one person appointed by the  
30 governing board of each municipality that has annexed its territory to the district under  
31 Section 3(a) of this act.

32 Section 10. This act is effective when it becomes law.