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Short Title: Regionalization of Public Utilities.

(Public)

Sponsors:

Referred to:

April 2, 2013

A BILL TO BE ENTITLED

AN ACT TO PROMOTE THE PROVISION OF REGIONAL WATER AND SEWER SERVICES BY TRANSFERRING OWNERSHIP AND OPERATION OF CERTAIN PUBLIC WATER AND SEWER SYSTEMS TO A METROPOLITAN WATER AND SEWERAGE DISTRICT.

Whereas, regional water and sewer systems provide reliable, cost-effective, high-quality water and sewer services to a wide range of residential and institutional customers; and

Whereas, in an effort to ensure that the citizens and businesses of North Carolina are provided with the highest quality services, the State recognizes the value of regional solutions for public water and sewer for large public systems; Now, therefore, The General Assembly of North Carolina enacts:

**SECTION 1.(a)** All assets, real and personal, tangible and intangible, and all outstanding debts of any public water system meeting all of the following criteria are by operation of law transferred to the metropolitan sewerage district operating in the county where the public water system is located, to be operated as a Metropolitan Water and Sewerage District:

- (1) The public water system is owned and operated by a municipality located in a county where a metropolitan sewerage district is operating.
- (2) The public water system has not been issued a certificate for an interbasin transfer.
- (3) The public water system serves a population greater than 120,000 people, according to data submitted pursuant to G.S. 143-355(l).

**SECTION 1.(b)** All assets, real and personal, tangible and intangible, and all outstanding debts of any public sewer system operated by a subdivision of the State and body politic that is interconnected with the metropolitan sewerage district receiving assets pursuant to Section 1(a) of this act are by operation of law transferred to that metropolitan sewerage district to be operated as a Metropolitan Water and Sewerage District.

**SECTION 1.(c)** All assets, real and personal, tangible and intangible, and all outstanding debts of any public sewer system operated by the metropolitan sewerage district receiving assets pursuant to Sections 1(a) and 1(b) of this act, are by operation of law transferred to, and be operated as, a Metropolitan Water and Sewerage District, as established pursuant to this act.



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1           (17) Water system. – As defined in G.S. 162A-32.

2           (18) Water treatment or purification plant. – As defined in G.S. 162A-32.

3           (b) Description of Boundaries. – Whenever this Article requires the boundaries of an  
4 area be described, it shall be sufficient if the boundaries are described in a manner which  
5 conveys an understanding of the location of the land and may be by any of the following:

6           (1) By reference to a clearly identified map recorded in the appropriate register  
7 of deeds office.

8           (2) By metes and bounds.

9           (3) By general description referring to natural boundaries, boundaries of  
10 political subdivisions, or boundaries of particular tracts or parcels of land.

11           (4) Any combination of the foregoing.

12 **"§ 162A-85.2. Creation.**

13           (a) Except as provided by operation of law, the governing bodies of two or more  
14 political subdivisions may establish a metropolitan water and sewerage district if all of the  
15 political subdivisions adopt a resolution setting forth all of the following:

16           (1) The names of the appointees to the district board.

17           (2) The date on which the district board shall be established.

18           (3) The boundaries of the district board.

19           (b) Prior to the adoption of a resolution under subsection (a) of this section, the  
20 governing body shall hold at least two public hearings on the matter, held at least 30 days apart,  
21 after publication of the notices of public hearing in a newspaper of general circulation,  
22 published at least 10 days before each public hearing.

23 **"§ 162A-85.3. District board.**

24           (a) Appointment. – The district board shall consist of members appointed as follows:

25           (1) Two individuals by the governing body of each county served, wholly or in  
26 part, by the district.

27           (2) One individual by the governing body of each municipality served by the  
28 district located in any county served by the district with a population greater  
29 than 200,000.

30           (3) Two individuals by the governing body of any municipality served by the  
31 district with a population greater than 75,000, in addition to any  
32 appointments under subdivision (2) of this subsection.

33           (4) One individual by the governing body of any county served by the district  
34 with a population greater than 200,000, in addition to any appointments  
35 under subdivision (1) of this subsection.

36           (5) One individual by the governing body of a county in which a watershed  
37 -serving the district board is located in a municipality not served by the  
38 district, upon recommendation of that municipality. The municipality shall  
39 provide to the governing body of the county a list of three names within 30  
40 days of written request by the county, from which the county must select an  
41 appointee if the names are provided within 30 days of written request.

42           (6) One individual by the governing body of any elected water and sewer district  
43 wholly contained within the boundaries of the district.

44           (b) Terms; Reappointment. – Terms shall be for three years. A member shall serve until  
45 a successor has been duly appointed and qualified.

46           (c) Vacancies; Removal. – If a vacancy shall occur on a district board, the governing  
47 body which appointed the vacating member shall appoint a new member who shall serve for  
48 the remainder of the unexpired term. Any member of a district board may be removed by the  
49 governing board that appointed that member.

50           (d) Oath of Office. – Each member of the district board, before entering upon the  
51 duties, shall take and subscribe an oath or affirmation to support the Constitution and laws of

1 the United States and of this State and to discharge faithfully the duties of the office. A record  
2 of each such oath shall be filed with the clerk or clerks of the governing boards appointing the  
3 members.

4 (e) Chair; Officers. – The district board shall elect one of its members as chairman and  
5 another as vice-chairman. The district board shall appoint a secretary and a treasurer who may,  
6 but need not, be members of the district board. The offices of secretary and treasurer may be  
7 combined. The district board may also appoint an assistant secretary and an assistant treasurer  
8 or, if the office is combined, an assistant secretary-treasurer who may, but need not, be  
9 members of the district board. The terms of office of the chairman, vice-chairman, secretary,  
10 treasurer, assistant secretary, and assistant treasurer shall be as provided in the bylaws of the  
11 district board.

12 (f) Meetings; Quorum. – The district board shall meet regularly at such places and  
13 dates as are determined by the district board. All meetings shall comply with Article 33C of  
14 Chapter 143 of the General Statutes. A majority of the members of the district board shall  
15 constitute a quorum, and the affirmative vote of a majority of the members of the district board  
16 present at any meeting thereof shall be necessary for any action taken by the district board. No  
17 vacancy in the membership of the district board shall impair the right of a quorum to exercise  
18 all the rights and perform all the duties of the district board. Each member, including the  
19 chairman, shall be entitled to vote on any question.

20 (g) Compensation. – The members of the district board may receive compensation in an  
21 amount to be determined by the district board but not to exceed that compensation paid to  
22 members of Occupational Licensing Boards as provided in G.S. 93B-5(a) for each meeting of  
23 the district board attended and for attendance at each regularly scheduled committee meeting of  
24 the district board. The members of the district board may also be reimbursed the amount of  
25 actual expenses incurred by that member in the performance of that member's duties.

26 **"§ 162A-85.4. Expansion of district board after creation.**

27 (a) After creation pursuant to G.S. 162A-85.2, the district board may expand to include  
28 other political subdivisions if the district board and the political subdivision adopt identical  
29 resolutions indicating the political subdivision will become a participant in the district board.

30 (b) Prior to adopting the resolution under subsection (a) of this section, the district  
31 board and the political subdivision shall hold at least two public hearings on the matter, held at  
32 least 30 days apart, after publication of the notices of public hearing in a newspaper of general  
33 circulation, published at least 10 days before each public hearing.

34 (c) Upon adoption of the identical resolutions, the political subdivision shall appoint a  
35 district member in accordance with G.S. 162A-85.3(a), if that political subdivision is entitled to  
36 an appointment under that section.

37 **"§ 162A-85.5. Powers generally.**

38 (a) Each district shall be deemed to be a public body and body politic and corporate  
39 exercising public and essential governmental functions to provide for the preservation and  
40 promotion of the public health and welfare, and each district is hereby authorized and  
41 empowered to do all of the following:

42 (1) To exercise any power of a Metropolitan Water District under G.S. 162A-36,  
43 except subdivision (9) of that section.

44 (2) To exercise any power of a Metropolitan Sewer District under  
45 G.S. 162A-69, except subdivision (9) of that section.

46 (3) To do all acts and things necessary or convenient to carry out the powers  
47 granted by this Article.

48 (b) Each district shall keep its accounts on the basis of a fiscal year commencing on the  
49 first day of July and ending on the 30th day of June of the following year.

50 **"§ 162A-85.7. Bonds and notes authorized.**

1 A metropolitan water and sewerage district shall have power from time to time to issue  
2 bonds and notes under the Local Government Finance Act.

3 **"§ 162A-85.13. Rates and charges for services.**

4 (a) The district board may fix, and may revise from time to time, rents, rates, fees, and  
5 other charges for the use of and for the services furnished or to be furnished by any water  
6 system or sewerage system. Such rents, rates, fees, and charges may not apply differing  
7 treatment within and outside the corporate limits of any city or county within the jurisdiction of  
8 the district board. Such rents, rates, fees, and charges shall not be subject to supervision or  
9 regulation by any bureau, board, commission, or other agency of the State or of any political  
10 subdivision.

11 (b) Any such rents, rates, fees, and charges pledged to the payment of revenue bonds of  
12 the district shall be fixed and revised so that the revenues of the water system or sewerage  
13 system, together with any other available funds, shall be sufficient at all times to pay the cost of  
14 maintaining, repairing, and operating the water system or sewerage system, the revenues of  
15 which are pledged to the payment of such revenue bonds, including reserves for such purposes,  
16 and to pay the interest on and the principal of such revenue bonds as the same shall become due  
17 and payable and to provide reserves therefor. If any such rents, rates, fees, and charges are  
18 pledged to the payment of any general obligation bonds issued under this Article, such rents,  
19 rates, fees, and charges shall be fixed and revised so as to comply with the requirements of such  
20 pledge.

21 (c) The district board may provide methods for collection of such rents, rates, fees, and  
22 charges and measures for enforcement of collection thereof, including penalties and the denial  
23 or discontinuance of service.

24 **"§ 162A-85.17. Rights-of-way and easements.**

25 A right-of-way or easement in, along, or across any State highway system, road, or street,  
26 and along or across any city or town street within a district is hereby granted to a district in case  
27 such right-of-way is found by the district board to be necessary or convenient for carrying out  
28 any of the work of the district. Any work done in, along, or across any State highway system,  
29 road, street, or property shall be done in accordance with the rules and regulations and any  
30 reasonable requirements of the Department of Transportation, and any work done in, along, or  
31 across any municipal street or property shall be done in accordance with any reasonable  
32 requirements of the municipal governing body.

33 **"§ 162A-85.19. Authority of governing bodies of political subdivisions.**

34 (a) The governing body of any political subdivision is hereby authorized and  
35 empowered to do any of the following:

36 (1) Subject to the approval of the Local Government Commission regarding the  
37 disposition of any outstanding debt related to the water system or sewer  
38 system, or both, to transfer jurisdiction over and to lease, lend, sell, grant, or  
39 convey to a district, upon such terms and conditions as the governing body  
40 of such political subdivision may agree upon with the district board, the  
41 whole or any part of any existing water system or systems or sewerage  
42 system or systems or such real or personal property as may be necessary or  
43 useful in connection with the acquisition, construction, reconstruction,  
44 improvement, extension, enlargement, equipment, repair, maintenance, or  
45 operation of any water system or sewerage system by the district, including  
46 public roads and other property already devoted to public use.

47 (2) To make and enter into contracts or agreements with a district, upon such  
48 terms and conditions and for such periods as such governing body and the  
49 district board may determine for any of the following:

50 a. For the collection, treatment, or disposal of sewage.

- 1                    b. For the supply of raw or treated water on a regular retail or wholesale  
2                    basis.
- 3                    c. For the supply of raw or treated water on a standby wholesale basis.
- 4                    d. For the construction of jointly financed facilities whose title shall be  
5                    vested in the district.
- 6                    e. For the collecting by such political subdivision or by the district of  
7                    rents, rates, fees, or charges for the services and facilities provided to  
8                    or for such political subdivision or its inhabitants by any water  
9                    system or sewerage system and for the enforcement of collection of  
10                   such rents, rates, fees, and charges.
- 11                   f. For the imposition of penalties, including the shutting off of the  
12                   supply of water furnished by any water system owned or operated by  
13                   such political subdivision, in the event that the owner, tenant, or  
14                   occupant of any premises utilizing such water shall fail to pay any  
15                   such rents, rates, fees, or charges.
- 16                   (3) To fix and revise from time to time, rents, rates, fees, and other charges for  
17                   the services furnished or to be furnished by a water system or sewerage  
18                   system under any contract between the district and such political subdivision  
19                   and to pledge all or any part of the proceeds of such rents, rates, fees, and  
20                   charges to the payment of any obligation of such political subdivision to the  
21                   district under such contract.
- 22                   (4) To pay any obligation of such political subdivision to the district under such  
23                   contract from any available funds of the political subdivision and to levy and  
24                   collect a tax ad valorem for the making of any such payment.
- 25                   (5) In its discretion or if required by law, to submit to its qualified electors under  
26                   the election laws applicable to such political subdivision any contract or  
27                   agreement which such governing body is authorized to make and enter into  
28                   with the district under the provisions of this Article.

29                   (b) Any such election upon a contract or agreement called under subsection (a) of this  
30                   section may, at the discretion of the governing body, be called and held under the election laws  
31                   applicable to the issuance of bonds by such political subdivision.

32                   **"§ 162A-85.21. Submission of preliminary plans to planning groups; cooperation with**  
33                   **planning agencies.**

34                   (a) Prior to the time final plans are made for the extension of any water system or  
35                   sewerage system, the district board shall present preliminary plans for such improvement to the  
36                   county or municipal governing board for their consideration if such facility is to be located  
37                   within the jurisdiction of any such county or municipality. The district board shall make every  
38                   effort to cooperate with the county or municipality in the location and construction of any new  
39                   proposed facility authorized under this Article.

40                   (b) Any district board created under the authority of this Article is hereby directed,  
41                   wherever possible, to coordinate its plans for the construction of any new water system or  
42                   sewerage system improvements with the overall plans for the development of the planning area  
43                   if such district is located wholly or in part within a county or municipal planning area.

44                   (c) This section shall not apply to renovations, repairs, or regular maintenance of water  
45                   systems or sewer systems.

46                   **"§ 162A-85.25. Adoption and enforcement of ordinances.**

47                   (a) A district shall have the same power as a city under G.S. 160A-175 to assess civil  
48                   finances and penalties for violation of its ordinances and may secure injunctions to further ensure  
49                   compliance with its ordinances as provided by this section.

50                   (b) An ordinance may provide that its violation shall subject the offender to a civil  
51                   penalty of not more than one thousand dollars (\$1,000) to be recovered by the district in a civil

1 action in the nature of debt if the offender does not pay the penalty within a prescribed period  
2 of time after he has been cited for violation of the ordinance. Any person assessed a civil  
3 penalty by the district shall be notified of the assessment by registered or certified mail, and the  
4 notice shall specify the reasons for the assessment. If the person assessed fails to pay the  
5 amount of the assessment to the district within 30 days after receipt of notice, or such longer  
6 period, not to exceed 180 days, as the district may specify, the district may institute a civil  
7 action in the General Court of Justice of the county in which the violation occurred or, in the  
8 discretion of the district, in the General Court of Justice of the county in which the person  
9 assessed has his or its principal place of business, to recover the amount of the assessment. The  
10 validity of the district's action may be appealed directly to General Court of Justice in the  
11 county in which the violation occurred or may be raised at any time in the action to recover the  
12 assessment. Neither failure to contest the district's action directly nor failure to raise the issue of  
13 validity in the action to recover an assessment precludes the other.

14 (c) An ordinance may provide that it may be enforced by an appropriate equitable  
15 remedy issuing from court of competent jurisdiction. In such case, the General Court of Justice  
16 shall have jurisdiction to issue such orders as may be appropriate, and it shall not be a defense  
17 to the application of the district for equitable relief that there is an adequate remedy at law.

18 (d) Subject to the express terms of an ordinance, a district ordinance may be enforced  
19 by any one, all, or a combination of the remedies authorized and prescribed by this section.

20 (e) An ordinance may provide, when appropriate, that each day's continuing violation  
21 shall be a separate and distinct offense.

22 **"§ 162A-85.29. No privatization.**

23 The district board may not in any way privatize the provision of water or sewer to the  
24 customers of the district unless related to administrative matters only."

25 **SECTION 3.** G.S. 159-44(4) reads as rewritten:

26 "(4) "Unit," "unit of local government," or "local government" means counties;  
27 cities, towns, and incorporated villages; consolidated city-counties, as  
28 defined by G.S. 160B-2(1); sanitary districts; mosquito control districts;  
29 hospital districts; merged school administrative units described in  
30 G.S. 115C-513; metropolitan sewerage districts; metropolitan water districts;  
31 metropolitan water and sewerage districts; county water and sewer districts;  
32 regional public transportation authorities; and special airport districts."

33 **SECTION 4.** G.S. 159-48(e) reads as rewritten:

34 "(e) Each sanitary district, mosquito control district, hospital district, merged school  
35 administrative unit described in G.S. 115C-513; metropolitan sewerage district, metropolitan  
36 water district, metropolitan water and sewerage district, county water and sewer district,  
37 regional public transportation authority and special airport district is authorized to borrow  
38 money and issue its bonds under this Article in evidence thereof for the purpose of paying any  
39 capital costs of any one or more of the purposes for which it is authorized, by general laws  
40 uniformly applicable throughout the State, to raise or appropriate money, except for current  
41 expenses."

42 **SECTION 5.** G.S. 159-81(1) reads as rewritten:

43 "(1) "Municipality" means a county, city, town, incorporated village, sanitary  
44 district, metropolitan sewerage district, metropolitan water district,  
45 metropolitan water and sewerage district, county water and sewer district,  
46 water and sewer authority, hospital authority, hospital district, parking  
47 authority, special airport district, special district created under Article 43 of  
48 Chapter 105 of the General Statutes, regional public transportation authority,  
49 regional transportation authority, regional natural gas district, regional sports  
50 authority, airport authority, joint agency created pursuant to Part 1 of Article  
51 20 of Chapter 160A of the General Statutes, a joint agency authorized by

1 agreement between two cities to operate an airport pursuant to G.S. 63-56,  
2 and the North Carolina Turnpike Authority described in Article 6H of  
3 Chapter 136 of the General Statutes and transferred to the Department of  
4 Transportation pursuant to G.S. 136-89.182(b), but not any other forms of  
5 State or local government."

6 **SECTION 5.5.** Article 5 of Chapter 162A of the General Statutes is amended by  
7 adding a new section to read:

8 "**§ 162A-66.5. Approval of all political subdivisions required.**

9 Prior to the adoption of a resolution under G.S. 162A-66 on or after April 1, 2013, the  
10 Environmental Management Commission shall receive a resolution supporting the  
11 establishment of a district board from (i) the board of commissioners of the county or counties  
12 lying wholly or partly within the boundaries of the proposed district and (ii) from the governing  
13 board of each political subdivision in the county or counties lying wholly or partly within the  
14 boundaries of the proposed district. If the Environmental Management Commission does not  
15 receive a resolution from each of those political subdivisions, the Environmental Management  
16 Commission may not adopt the resolution to create the district board."

17 **SECTION 6.** This act becomes effective May 15, 2013, and the Metropolitan  
18 Water and Sewerage District in Section 1 of this act shall be created by operation of law.