

Article 28.

Regional Natural Gas District.

§ 160A-660. Title.

This Article is the "Regional Natural Gas District Act" and may be cited by that name. (1997-426, s. 2.)

§ 160A-661. Purpose; definitions.

(a) The purpose of a district created under this Article is to enhance the quality of life in its territorial jurisdiction by promoting the development of natural gas systems to enhance the economic development of the area.

(b) The following definitions apply in this Article:

- (1) Board of Trustees. – The governing board of the district in which the general legislative powers of the district are vested.
- (2) District. – A regional natural gas district.
- (3) Natural gas system. – A gas production, storage, transmission and distribution system, or any part or parts thereof.
- (4) Regional natural gas district. – A public body and body politic and corporate of the State of North Carolina organized in accordance with the provisions of this Article exercising public and essential governmental functions to provide for the preservation and promotion of the public welfare for the purposes, with the powers, and subject to the restrictions set forth in this Article.
- (5) Unit of local government. – Any county, city, town, or municipality of this State, and any other political subdivision, public corporation, or district in this State, that is or may be authorized by law to acquire, establish, construct, enlarge, improve, maintain, own, or operate natural gas systems.
- (6) Unit of local government's chief administrative official. – The county manager, city manager, town manager, or other person, by whatever title known, in whom the responsibility for the unit of local government's administrative duties is vested. (1997-426, s. 2.)

§ 160A-662. Territorial jurisdiction and service area of district.

(a) A district may be created for one or more entire counties that are totally unserved with natural gas and in which a specific natural gas project has not been approved by the Utilities Commission at the time of creation of the district. A letter from the Utilities Commission to this effect shall conclusively establish that the area is totally unserved and that a project has not been approved. This area is the territorial jurisdiction and the service area of the district.

(b) The creation of a district does not confer on the district the exclusive right to provide natural gas service in that territorial jurisdiction. (1997-426, s. 2.)

§ 160A-663. Creation of district.

(a) The boards of commissioners of any one or more counties within an area for which a district may be created as provided by G.S. 160A-662, and the governing body of any city geographically located within one or more of these counties and that chooses to join in the organization of a district, may by resolution signify their determination to organize a district under the provisions of this Article. Each of these resolutions shall be adopted after a public hearing thereon, notice of which hearing shall be given by publication at least once, not less than 10 days

prior to the date fixed for the hearing, in a newspaper having a general circulation in the county. The notice shall contain a brief statement of the substance of the proposed resolution, shall set forth the proposed articles of incorporation of the district, and shall state the time and place of the public hearing. A copy of the notice shall be mailed not later than the first day of newspaper publication to the business office of any public utility that holds a franchise from the North Carolina Utilities Commission to serve any part of the proposed district with natural gas service. No county or city shall be required to make any other publication of the resolution under the provisions of any other law.

(b) Each resolution shall include articles of incorporation which shall set forth all of the following:

- (1) The name of the district.
- (2) The composition of the board of trustees, terms of office, and the manner of making appointments and filling vacancies.
- (3) A statement that the district is organized under this Article.
- (4) The names of the organizing counties and cities.
- (5) Provision for the distribution of assets in the event the district is terminated.

(c) A certified copy of each of the resolutions signifying the determination to organize a district under the provisions of this Article shall be filed with the Secretary of State, together with proof of publication and mailing of the notice of hearing on each of the resolutions. If the Secretary of State finds that the resolutions, including the articles of incorporation, conform to the provisions of this Article and that the notices of hearing were properly published and mailed, the Secretary of State shall file the resolutions and proofs of publication and mailing, shall issue a certificate of incorporation under the seal of the State, and shall record the certificate in an appropriate book of record. The issuance of this certificate of incorporation by the Secretary of State shall constitute the district a public body and body politic and corporate of the State of North Carolina. The certificate of incorporation shall be conclusive evidence of the fact that the district has been duly created and established under this Article.

(d) When the district has been duly organized and its officers elected, the secretary of the district shall certify to the Secretary of State the names and addresses of the officers, the name and address of the registered agent, and the address of the principal office of the district. The district shall be subject to the provisions of Article 5 of Chapter 55A of the General Statutes. (1997-426, s. 2.)

§ 160A-664. Membership; officers; compensation.

(a) The governing body of a district is the Board of Trustees. The Board of Trustees shall consist of members as provided in the articles of incorporation.

(b) Service on the Board of Trustees may be in addition to any other office which a person is entitled to hold. Each voting member of the Board of Trustees may hold elective public office as defined by G.S. 128-1.1(d).

(c) Members of the Board of Trustees shall reside within the territorial jurisdiction of the district as defined by G.S. 160A-662.

(d) The Board of Trustees shall annually elect from its membership a Chair and a Vice-Chair and shall annually elect a Secretary and a Treasurer.

(e) Members of the Board of Trustees shall receive a sum not to exceed fifty dollars (\$50.00) as compensation for attendance at each duly conducted meeting of the district. (1997-426, s. 2.)

§ 160A-665. Quorum.

A majority of the members of the Board of Trustees shall constitute a quorum for the transaction of business. (1997-426, s. 2.)

§ 160A-666. Advisory committees.

The Board of Trustees may provide for the selection of any advisory committees that it finds appropriate, which may or may not include members of the Board of Trustees. (1997-426, s. 2.)

§ 160A-667. General powers of the district.

The general powers of the district include all of the following:

- (1) To sue and be sued.
- (2) To have a seal.
- (3) To make rules not inconsistent with this Article, for its organization and internal management.
- (4) To employ persons deemed necessary to carry out the functions and duties assigned to them by the district and to fix their compensation, within the limit of available funds.
- (5) With the approval of the unit of local government's chief administrative official, to use officers, employees, agents, and facilities of the unit of local government for such purposes and upon such terms as may be mutually agreeable.
- (6) To retain and employ counsel, auditors, engineers, and private consultants on an annual salary, contract basis, or otherwise for rendering professional or technical services and advice.
- (7) To acquire, lease as lessee with or without option to purchase, hold, own, and use any franchise, property, real or personal, tangible or intangible, or any interest therein and to sell, lease as lessor with or without option to purchase, transfer (or dispose thereof) whenever the property is no longer required for purposes of the district, or exchange it for other property or rights which are useful for the district's purposes. Except as provided in any covenant or debt instrument designed to protect the creditor, if any loans or grants by the Department of Commerce have not been repaid, all or a substantial part of an operating natural gas district may not be disposed of without the approval of the Department of Commerce. If the sale is approved by the Department of Commerce, the district shall repay the State the lesser of the amount of any capital grant made by the State or one-half of the amount of the proceeds.
- (8) To acquire by gift, purchase, lease as lessee with or without option to purchase or otherwise to construct, improve, maintain, repair, operate, or administer any component parts of a natural gas system. The district also may contract for the maintenance, operation, or administration thereof or to lease as lessor the same for maintenance, operation, or administration by private parties.
- (9) To make or enter into contracts, agreements, deeds, leases with or without option to purchase, conveyances, or other instruments, including contracts and agreements with the United States, the State of North Carolina, and units of local government.

- (10) To develop and make data, plans, information, surveys, and studies of natural gas systems within the territorial jurisdiction of the district and to prepare and make recommendations in regard thereto.
- (11) To enter in a reasonable manner lands, waters, or premises for the purpose of making surveys, soundings, drillings, and examinations. This entry shall not be deemed a trespass except that the district shall be liable for any actual and consequential damages resulting from the entry.
- (12) To develop and carry out demonstration projects.
- (13) To make, enter into, and perform contracts with private parties and natural gas companies with respect to the management and operation of natural gas systems.
- (14) To make, enter into, and perform contracts with any public utility, railroad, or transportation company for the joint use of property or rights.
- (15) To own, lease, and operate natural gas systems. These systems may also include the purchase or lease, or both, of natural gas fields and natural gas reserves within the State, and the purchase of natural gas supplies within or without the State. A district may operate that part of a gas system involving the purchase or lease, or both, of natural gas fields, natural gas reserves, and natural gas supplies, in an operating agreement, partnership or joint venture arrangement with natural gas utilities and private enterprise. The district may acquire, purchase, construct, receive, own, operate, maintain, enlarge, and improve natural gas systems and transport and sell at wholesale all or any part of its gas supply.
- (16) To purchase or finance real or personal property under G.S. 160A-20.
- (17) To obtain grants, loans, and assistance from the United States, the State of North Carolina, any public body, or any private source.
- (18) To enter into and perform contracts and agreements with other natural gas districts, regional natural gas districts, or units of local government pursuant to the provisions of Part 1 of Article 20 of Chapter 160A of the General Statutes and to enter into contracts and agreements with private natural gas companies, but this subdivision does not authorize the operation of, or contracting for the operation of, service of a natural gas system outside the service area of the district. A district may provide service or contract for the providing of service to a city geographically located within a district, notwithstanding that the city did not join the district pursuant to G.S. 160A-663(a) or G.S. 160A-672.
- (19) Except as restricted by covenants in bonds, notes, security interests, or trust certificates, to set in its sole discretion rates, fees, and charges for use of its natural gas system in accordance with G.S. 160A-676.
- (20) To do all related things necessary to carry out its purpose and to exercise the powers granted to the district.
- (21) To issue revenue bonds and notes and to incur other obligations as authorized by this Article. (1997-426, s. 2.)

§ 160A-668. Fiscal accountability.

A district is a public authority subject to the provisions of Chapter 159 of the General Statutes. (1997-426, s. 2.)

§ 160A-669. Funds.

The establishment and operation of a district is a public purpose, and the State of North Carolina and any unit of local government may appropriate funds to support the establishment and operation of the district. The State of North Carolina and any unit of local government may also dedicate, sell, convey, donate, or lease any of their interests in any property to the district. A district may apply for grants from the State of North Carolina, or from the United States or any department, agency, or instrumentality thereof. The Department of Commerce may allocate to a district any funds appropriated for natural gas. (1997-426, s. 2.)

§ 160A-670. Effect on existing franchises and operations.

Creation of the district does not affect any existing franchises granted by any unit of local government. Those existing franchises shall continue in full force and effect until legally terminated, and all ordinances and resolutions of the unit of local government regulating local natural gas systems shall continue in full force and effect unless superseded by rules of the district. This superseding, if any, may occur only on the basis of prior mutual agreement between the district and the respective unit of local government. (1997-426, s. 2.)

§ 160A-671. Termination of district.

The Board of Trustees, after providing for the continued availability of natural gas service to its customers, if any, may terminate the existence of the district at any time when it has no outstanding indebtedness. The Board of Trustees shall file notification of the termination with the Secretary of State. (1997-426, s. 2.)

§ 160A-672. Joinder of county or city.

(a) Whenever a district has been organized under the provisions of this Article, a county as defined in G.S. 160A-662(a) or a city within that county, or a city that did not join in the organization of a district but is geographically located within the district may, with the consent of the district as evidenced by a resolution adopted by a majority of the members of the Board of Trustees of the district, join the district.

(b) A county or city desiring to join an existing district shall signify its desire by resolution adopted after a public hearing thereon, notice of which hearing shall be given in the manner and at the time provided in G.S. 160A-663. Such notice shall contain a brief statement of the substance of said resolution and shall state the time and place of the public hearing.

(c) A certified copy of each resolution signifying the desire of a county or city to join an existing district, together with proof of publication of the notice of hearing on the resolution, and a certified copy of the resolution of the Board of Trustees of the district consenting to the joining shall be filed with the Secretary of State. If the Secretary of State finds that the resolutions conform to the provisions of this Article and that the notices of hearing were properly published, the Secretary of State shall file such resolutions and proofs of publication in the office of the Secretary of State, shall issue a certificate of joinder, and shall record the certificate in the appropriate book of record. The issuance of the certificate shall be conclusive evidence of the joinder of the county or city to the district. (1997-426, s. 2.)

§ 160A-673. Bonds and notes authorized.

The district may issue revenue bonds and revenue bond anticipation notes pursuant to the provisions of the State and Local Government Revenue Bond Act, Article 5 of Chapter 159 of the General Statutes, and Article 9 of Chapter 159 for the purposes provided in this Article. If and to the extent any provisions of Articles 5 and 9 of Chapter 159 are inconsistent with the provisions of this Article, the provisions of this Article shall be controlling. A district may proceed with the issuance of bonds and notes under Articles 5 and 9 of Chapter 159 notwithstanding that, to the extent of any inconsistency only, the district complies with the provisions of this Article and not the provisions of Articles 5 and 9 of Chapter 159. (1997-426, s. 2.)

§ 160A-674. Acquisition, power of eminent domain.

(a) The district shall have continuing power to acquire, by gift, grant, devise, exchange, purchase, lease with or without option to purchase, or any other lawful method including, but not limited to, the power of eminent domain, the fee or any lesser interest in real or personal property for use by the district.

(b) Exercise of the power of eminent domain by the district shall be as a private condemnor in accordance with Chapter 40A of the General Statutes. Notwithstanding Chapter 40A of the General Statutes, before final judgment may be entered in any action of condemnation initiated by the district, the district shall furnish proof that the board of commissioners of the county where the land is located has consented by resolution or ordinance to the taking. (1997-426, s. 2; 2011-284, s. 123.)

§ 160A-675. Tax exemption.

A district, and its property, bonds and notes, and income, are exempt from property taxes and income taxes to the same extent as if it were a city. A district is subject to gross receipts tax under G.S. 105-116. (1997-426, s. 2.)

§ 160A-676. Authority to fix and enforce rates.

(a) A district may establish and revise from time to time schedules of rents, rates, fees, charges, and penalties made applicable throughout the district for the gas services. Schedules of rents, rates, fees, charges, or penalties may vary according to classes of service. Before it establishes or revises a schedule of rents, rates, fees, charges, or penalties, the district Board of Trustees shall hold a public hearing on the matter. A notice of the hearing shall be given at least once in a newspaper having general circulation in the area, not less than seven days before the public hearing.

(b) A district may collect delinquent accounts by any remedy provided by law for collecting and enforcing private debts. A district may also discontinue service to any customer whose account remains delinquent for more than 30 days. When service is discontinued for delinquency, it shall be unlawful for any person other than a duly authorized agent or employee of the district to do any act that results in a resumption of services. If a delinquent customer is not the owner of the premises to which the services are delivered, the payment of the delinquent account may not be required before providing services at the request of a new and different tenant or occupant of the premises, but this restriction shall not apply when the premises are occupied by two or more tenants whose services are measured by the same meter.

(c) Rents, rates, fees, charges, and penalties for services shall be legal obligations of the person contracting for them and shall in no case be a lien upon the property or premises served.

(d) Rents, rates, fees, charges, and penalties for services shall be legal obligations of the owner of the premises served when the property or premises are leased or rented to more than one tenant and services rendered to more than one tenant are measured by the same meter. (1997-426, s. 2.)

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