

**GENERAL ASSEMBLY OF NORTH CAROLINA
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**HOUSE BILL 522
Committee Substitute Favorable 4/23/01
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Senate State and Local Government Committee Substitute Adopted 7/24/02**

Short Title: Authorize Dev. Authority/Per Diem Increase. (Public)

Sponsors:

Referred to:

March 8, 2001

A BILL TO BE ENTITLED

1 AN ACT TO AUTHORIZE THE CREATION OF COUNTY ECONOMIC
2 DEVELOPMENT AUTHORITIES AND TO INCREASE THE ANNUAL PER
3 DIEM FOR WATER AND SEWER AUTHORITY MEMBERS.
4

5 The General Assembly of North Carolina enacts:

6 **SECTION 1.** G.S. 162A-5(c) reads as rewritten:

7 "(c) Each member of the authority before entering upon his duties shall take and
8 subscribe an oath or affirmation to support the Constitution of the United States and of
9 this State and to discharge faithfully the duties of his office, and a record of each such
10 oath shall be filed with the secretary of the authority.

11 The authority shall select one of its members as chairman and another as
12 vice-chairman and shall also select a secretary and a treasurer who may but need not be
13 members of the authority. The offices of secretary and treasurer may be combined. The
14 terms of office of the chairman, vice-chairman, secretary and treasurer shall be as
15 provided in the bylaws of the authority.

16 A majority of the members of the authority shall constitute a quorum and the
17 affirmative vote of a majority of all of the members of the authority shall be necessary
18 for any action taken by the authority. No vacancy in the membership of the authority
19 shall impair the right of a quorum to exercise all the rights and perform all of the duties
20 of the authority. The members of the authority may be paid a per diem compensation set
21 by the authority which per diem may not exceed the total amount of ~~two thousand~~
22 ~~dollars (\$2,000)~~ four thousand dollars (\$4,000) annually, and shall be reimbursed for the
23 amount of actual expenses incurred by them in the performance of their duties."

24 **SECTION 2.** Chapter 158 of the General Statutes is amended by adding a
25 new Article to read:

26 "Article 5.

1 "County Economic Development Authorities Act.

2 "**§ 158-50. Findings and purpose.**

3 (a) Findings. – The General Assembly finds that:

- 4 (1) There exists in parts of the State a critical condition of unemployment
5 and a scarcity of employment opportunities.
6 (2) The economic insecurity that results from this unemployment and
7 scarcity of employment opportunities constitutes a serious menace to
8 the safety and general welfare of the entire State.
9 (3) This unemployment and scarcity of employment opportunities has
10 caused many workers and their families, including young adults upon
11 whom future economic prosperity is dependent, to migrate elsewhere
12 to find employment and establish homes.
13 (4) This emigration has resulted in a reduced rate of growth in the tax base
14 of the counties and other local governments of the State, which impairs
15 the financial ability of these counties and other local governments to
16 support education and other local government services.
17 (5) This unemployment results in obligations to grant public assistance
18 and to pay unemployment compensation.
19 (6) These conditions can best be remedied by the attraction, stimulation,
20 expansion, and rehabilitation of industrial and manufacturing facilities
21 for industry in the State and other similar economic development
22 efforts.

23 (b) Purpose. – The purpose of a county economic development authority created
24 under this Article is to provide for the attraction, stimulation, expansion, and
25 rehabilitation of industrial and manufacturing facilities for industry in the State and to
26 carry out other similar economic development efforts.

27 "**§ 158-51. Definitions.**

28 The following definitions apply in this Article:

- 29 (1) Authority. – A county economic development authority created under
30 this Article.
31 (2) Eligible county. – A county that meets both of the following
32 conditions as of the date it adopts a resolution to create an economic
33 development authority under this Article:
34 a. It has a population of less than 70,000 according to the most
35 recent federal decennial census.
36 b. It is an enterprise tier one area as defined in G.S. 105-129.3.

37 "**§ 158-52. Creation of economic development authority.**

38 (a) Resolution to Create Authority. – An eligible county may create an economic
39 development authority by adopting a resolution finding that it is in the interest of the
40 safety and welfare of the county to create an economic development authority and
41 appointing the members of the authority in accordance with this Article. The resolution
42 must include articles of incorporation for the authority which set forth the following:

- 43 (1) The name of the authority.
44 (2) A statement that the authority is organized under this Article.

1 (3) The names and addresses of the first members of the authority
2 appointed by the county.

3 (b) Public Hearing. – The resolution may be adopted only after a public hearing
4 on the question, notice of which hearing has been given by publication at least once not
5 less than 10 days before the date set for the hearing in a newspaper having a general
6 circulation in the county. The notice must contain a brief statement of the substance of
7 the proposed resolution, specify a public location where members of the public may
8 review or obtain a copy of the proposed articles of incorporation of the authority, and
9 state the time and place of the public hearing to be held on the resolution. No other
10 publication or notice of the resolution is required.

11 (c) Incorporation of Authority. – A county that adopts a resolution as provided in
12 this section must file a certified copy of the resolution with the Secretary of State,
13 together with proof of publication of notice of the hearing on the resolution. The
14 resolution must contain the county clerk's attestation that it was adopted by the board of
15 commissioners. If the Secretary of State finds that the resolution, including the articles
16 of incorporation, conforms to the provisions of this Article and that notice of the hearing
17 was properly published, the Secretary of State must file the resolution and proof of
18 publication and must issue a certificate of incorporation for the authority under the seal
19 of the State. The Secretary of State must record the certificate of incorporation in an
20 appropriate book of record in the Secretary of State's office.

21 (d) Effect of Incorporation. – The issuance of the certificate of incorporation by
22 the Secretary of State constitutes the authority a public body and body politic and
23 corporate of the State. The authority is a public authority subject to the provisions of
24 Chapter 159 of the General Statutes. The certificate of incorporation is conclusive
25 evidence that the authority has been duly created and established under this Article.

26 (e) Amendment; Termination. – A county that has created an economic
27 development authority under this Article may adopt a resolution to amend the
28 authority's articles of incorporation. The requirements of this section for creating an
29 authority apply equally to amending the authority's articles of incorporation.

30 A county that creates an economic development authority under this Article may
31 terminate the authority by resolution at any time that all obligations incurred by the
32 authority have been fully satisfied. Upon termination, any assets of the authority
33 become the property of the county.

34 **§ 158-53. Members; organization; quorum.**

35 (a) Members. – An authority organized under this Article consists of the number
36 of members designated by the county in the resolution creating the authority. A
37 proportionate number of initial members of the authority must be appointed to serve
38 terms of four, five, and six years respectively. Successors serve six-year terms, with no
39 limit on reappointment. A person appointed to fill a vacancy serves for the remainder of
40 the unexpired term. The board of county commissioners may remove a member of the
41 authority for cause.

42 (b) Organization. – The authority must select a chair from among its members
43 who shall serve a three-year term. The authority meets at the call of the chair and must
44 adopt rules of procedure to govern its meetings. A majority of the members of the

1 authority constitutes a quorum, and the authority may act by majority vote of members
2 present and voting. The board of county commissioners must determine the
3 compensation, if any, to be paid to members of the authority.

4 (c) Dual Office Holding. – Service on the authority may be in addition to any
5 other office a person is entitled to hold.

6 **"§ 158-54. Powers.**

7 (a) The general powers of an authority created under this Article include the
8 following:

9 (1) The powers of a corporate body, including the power to sue and be
10 sued and to adopt and use a common seal.

11 (2) To adopt bylaws and resolutions in accordance with this Article for its
12 organization and internal management.

13 (3) To employ persons as necessary and to fix their compensation within
14 the limit of available funds.

15 (4) With the approval of the county manager, to use officers, employees,
16 agents, and facilities of the county for purposes and upon terms agreed
17 upon with the county.

18 (5) To acquire by purchase, lease, gift, lease with option to purchase,
19 installment sale, or otherwise, but not by eminent domain, or to obtain
20 options for the acquisition of, any property, real or personal, improved
21 or unimproved, and interests in land less than the fee interest.

22 (6) To sell, lease, exchange, transfer by lease with option to purchase or
23 installment sale, or otherwise dispose of, or to grant options for any of
24 these purposes with respect to, any real or personal property or interest
25 in real or personal property.

26 (7) To make contracts, deeds, leases with or without option to purchase,
27 conveyances, and other instruments, including contracts with the
28 United States, the State of North Carolina, and units of local
29 government within or outside the State.

30 (8) To borrow money on its bonds, notes, and other obligations, and to
31 secure all of these obligations by any combination of the following:

32 a. Mortgages on or security interests in any real or personal
33 property of the authority.

34 b. A pledge of any revenues or receivables of the authority.

35 (9) To apply for, accept, and administer loans, grants, and appropriations
36 of money from any federal agency, from the State or its political
37 subdivisions, or from any other public or private sources available, to
38 expend the money in accordance with the requirements imposed by the
39 lender or donor, and to give any evidences of indebtedness that are
40 required. No indebtedness of any kind incurred or created by the
41 authority constitutes an indebtedness of the State or its political
42 subdivisions, and no indebtedness of the authority involves or is
43 secured by the faith, credit, or taxing power of the State or its political
44 subdivisions.

- 1 (10) To adopt, alter, or repeal its own bylaws or rules implementing the
2 provisions of this Article.
- 3 (11) To execute financing agreements, security documents, and other
4 instruments appropriate in carrying out its purposes.
- 5 (12) To fix, charge, collect, pledge, or assign revenues of the authority.
- 6 (13) To employ consulting engineers, architects, attorneys, real estate
7 counselors, appraisers, and other consultants and employees as may be
8 required in the judgment of the authority and to fix and pay their
9 compensation from funds available to the authority, and, when
10 approved by the Local Government Commission under G.S.
11 159-123(e) and (f) as if the authority were an issuing unit, to select and
12 retain financial consultants, underwriters, and bond attorneys in
13 connection with the issuance of any indebtedness and to pay for their
14 services from funds available to the authority or out of the proceeds of
15 any borrowing for which their services were performed.
- 16 (14) To procure and maintain adequate insurance or otherwise provide for
17 adequate protection to indemnify the authority and its officers,
18 directors, agents, employees, adjoining property owners, or the general
19 public against loss or liability resulting from any act or omission by or
20 on behalf of the authority.
- 21 (15) To purchase or finance real or personal property in the manner
22 provided for cities and counties under G.S. 160A-20.
- 23 (16) To issue revenue bonds under the Local Government Revenue Bond
24 Act, Article 5 of Chapter 159 of the General Statutes, or the bond and
25 revenue anticipation provisions of Article 9 of Chapter 159 of the
26 General Statutes, to carry out its purposes.
- 27 (17) To issue obligations to finance the purchase or acquisition of land or
28 options on land, or the construction of buildings or facilities. An
29 obligation may be secured by the land purchased or acquired, or by the
30 buildings or facilities constructed, may be unsecured, or may be made
31 payable from revenues, the proceeds of notes, bonds, or the sale of any
32 lands, the proceeds of any bonds of the State or moneys appropriated
33 by the State, or any other available moneys of the authority.
- 34 (18) To surrender to the county any property no longer required by the
35 authority.
- 36 (b) The economic development powers of an authority created under this Article
37 include the following:
- 38 (1) To acquire, construct, improve, maintain, repair, operate, or administer
39 any component part of a public infrastructure system or facility within
40 the county, directly or by contract with a third party.
- 41 (2) Except as otherwise provided in this Article, to exercise the powers
42 granted to a local government for development by G.S. 158-7.1, except
43 the power to levy a property tax.

- 1 (3) To make grants and loans to support economic development projects
2 authorized by this Chapter within the county.
- 3 (4) To exercise the powers of a regional planning commission as provided
4 in G.S. 153A-395 and the powers of a regional economic development
5 commission as provided in Article 2 of this Chapter, but the authority
6 does not have the authority to establish land-use zoning in the county.
- 7 (5) To do all other things necessary or appropriate to carry out its purposes
8 as provided in this Article.

9 **§ 158-55. Tax exemption.**

10 Property owned by an authority created under this Article is exempt from taxation in
11 accordance with Section 2 of Article V of the North Carolina Constitution."

12 **SECTION 3.** G.S. 160A-20(h) is amended by adding a new subdivision to
13 read:

14 "(13) A county economic development authority created under Article 5 of
15 Chapter 158 of the General Statutes."

16 **SECTION 4.** This act is effective when it becomes law.