

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2023

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SENATE BILL 211
Agriculture, Energy, and Environment Committee Substitute Adopted 3/28/23

Short Title: Permit Multistate Water/Sewer Authority. (Public)

Sponsors:

Referred to:

March 7, 2023

1 A BILL TO BE ENTITLED
2 AN ACT TO ALLOW POLITICAL SUBDIVISIONS FROM ADJOINING STATES TO BE
3 MEMBERS OF A NORTH CAROLINA WATER AND SEWER AUTHORITY.

4 The General Assembly of North Carolina enacts:

5 **SECTION 1.** G.S. 162A-3 reads as rewritten:

6 "**§ 162A-3. Procedure for creation; certificate of incorporation; certification of principal**
7 **office and officers.**

8 (a) The governing body of a single county or the governing bodies of any two or more
9 political subdivisions may by resolution signify their determination to organize an authority
10 under the provisions of this Article. Each of such resolutions shall be adopted after a public
11 hearing thereon, notice of which hearing shall be given by publication at least once, not less than
12 10 days prior to the date fixed for such hearing, in a newspaper having a general circulation in
13 the political subdivision. Such notice shall contain a brief statement of the substance of the
14 proposed resolution, shall set forth the proposed articles of incorporation of the authority and
15 shall state the time and place of the public hearing to be held thereof. No such political
16 subdivision shall be required to make any other publication of such resolution under the
17 provisions of any other law.

18 (a1) If an authority is organized by three or more political subdivisions, it may include in
19 its organization nonprofit water corporations. The board of directors of a nonprofit water
20 corporation must signify the corporation's determination to participate in the organization of the
21 authority by adopting a resolution that meets the requirements of subsection (b) of this section.
22 The nonprofit water corporation is not subject to the notice and public hearing requirements of
23 subsection (a) of this section. For all other purposes of this Article, the nonprofit water
24 corporation shall be considered to be a political subdivision.

25 (a2) If an authority is organized by three or more political subdivisions, it may include in
26 its organization the State of North Carolina. The State of North Carolina is not subject to the
27 notice and public hearing requirements of subsection (a) of this section. For purposes of this
28 Article, the State of North Carolina shall be a political subdivision and its governing body shall
29 be the Council of State.

30 (a3) An authority may include one or more units of local government in a state adjoining
31 a county in this State that is organizing an authority under this section, or a county in this State
32 that contains one or more political subdivisions that are organizing an authority under this
33 section, if that inclusion is permitted by the laws of the adjoining state. The governing body of
34 the political subdivision in the adjoining state must adopt a resolution that meets the requirement
35 of subsection (b) of this section and must also file the resolution with the Secretary of State of
36 North Carolina and provide proof of publication as required by subsection (c) of this section. For



1 all other purposes of this Article and notwithstanding the requirement of G.S. 162A-2(7) that a
2 political subdivision be located in this State, the unit of local government in the adjoining state
3 is considered a political subdivision.

4 (b) Each such resolution shall include articles of incorporation which shall set forth:

5 (1) The name of the authority;

6 (2) A statement that such authority is organized under this Article;

7 (3) The names of the organizing political subdivisions; and

8 (4) The names and addresses of the first members of the authority appointed by
9 the organizing political subdivisions.

10 (c) A certified copy of each of such resolutions signifying the determination to organize
11 an authority under the provisions of this Article shall be filed with the Secretary of State of North
12 Carolina, together with proof of publication of the notice of hearing on each of such resolutions.
13 If the Secretary of State finds that the resolutions, including the articles of incorporation, conform
14 to the provisions of this Article and that the notices of hearing were properly published, he shall
15 file such resolutions and proofs of publication in his office and shall issue a certificate of
16 incorporation under the seal of the State and shall record the same in an appropriate book of
17 record in his office. The issuance of such certificate of incorporation by the Secretary of State
18 shall constitute the authority a public body and body politic and corporate of the State of North
19 Carolina. Said certificate of incorporation shall be conclusive evidence of the fact that such
20 authority has been duly created and established under the provisions of this Article.

21 (d) When the authority has been duly organized and its officers elected as herein provided
22 the secretary of the authority shall certify to the Secretary of State the names and addresses of
23 such officers as well as the address of the principal office of the authority."

24 **SECTION 2.** G.S. 162A-3.1 reads as rewritten:

25 **"§ 162A-3.1. Alternative procedure for creation.**

26 (a) As an alternative to the procedure set forth in G.S. 162A-3, the governing body of a
27 single county or the governing bodies of any two or more political subdivisions may by resolution
28 signify their determination to organize an authority under the provisions of this section of this
29 Article. Each of such resolutions shall be adopted after a public hearing thereon, notice of which
30 hearing shall be given by publication at least once, not less than 10 days prior to the date fixed
31 for such hearing, in a newspaper having a general circulation in the political subdivision. Such
32 notice shall contain a brief statement of the substance of the proposed resolution, shall set forth
33 the proposed articles of incorporation of the authority and shall state the time and place of the
34 public hearing. No such political subdivision shall be required to make any other publication of
35 such resolution under the provisions of any other law.

36 (a1) If an authority is organized by three or more political subdivisions, it may include in
37 its organization nonprofit water corporations. The board of directors of a nonprofit water
38 corporation must signify the corporation's determination to participate in the organization of the
39 authority by adopting a resolution that meets the requirements of subsection (b) of this section.
40 The nonprofit water corporation is not subject to the notice and public hearing requirements of
41 subsection (a) of this section. For all other purposes of this Article, the nonprofit water
42 corporation shall be considered to be a political subdivision.

43 (a2) If an authority is organized by three or more political subdivisions, it may include in
44 its organization the State of North Carolina. The State of North Carolina is not subject to the
45 notice and public hearing requirements of subsection (a) of this section. For purposes of this
46 Article, the State of North Carolina shall be a political subdivision and its governing body shall
47 be the Council of State.

48 (a3) An authority may include one or more units of local government in a state adjoining
49 a county in this State that is organizing an authority under this section, or a county in this State
50 that contains one or more political subdivisions that are organizing an authority under this
51 section, if that inclusion is permitted by the laws of the adjoining state. The governing body of

1 the political subdivision in the adjoining state must adopt a resolution that meets the requirement
2 of subsection (b) of this section and must also file the resolution with the Secretary of State of
3 North Carolina and provide proof of publication as required by subsection (c) of this section. For
4 all other purposes of this Article and notwithstanding the requirement of G.S. 162A-2(7) that a
5 political subdivision be located in this State, the unit of local government in the adjoining state
6 is considered a political subdivision.

7 (b) Each such resolution shall include articles of incorporation which shall set forth:

8 (1) The name of the authority;

9 (2) A statement that such authority is organized under this section of this Article;

10 (3) The names of the organizing political subdivisions;

11 (4) The names and addresses of the members of the authority appointed by the
12 organizing political subdivisions; and

13 (5) A statement that members of the authority will be limited to such members as
14 may be appointed from time to time by the organizing political subdivisions.

15 (c) A certified copy of each of such resolutions signifying the determination to organize
16 an authority under the provisions of this section of this Article shall be filed with the Secretary
17 of State of North Carolina, together with proof of publication of the notice of hearing on each of
18 such resolutions. If the Secretary of State finds that the resolutions, including the articles of
19 incorporation, conform to the provisions of this section of this Article and that the notices of
20 hearing were properly published, he shall file such resolutions and proofs of publication in his
21 office and shall issue a certificate of incorporation under the seal of the State and shall record the
22 same in an appropriate book of record in his office. The issuance of such certificate of
23 incorporation by the Secretary of State shall constitute the authority a public body and body
24 politic and corporate of the State of North Carolina. Said certificate of incorporation shall be
25 conclusive evidence of the fact that such authority has been duly created and established under
26 the provisions of this section of this Article.

27 (d) When the authority has been duly organized and its officers elected as herein provided
28 the secretary of the authority shall certify to the Secretary of State the names and addresses of
29 such officers as well as the address of the principal office of the authority."

30 **SECTION 3.** This act is effective when it becomes law and applies to any water and
31 sewer authority created under Article 1 of Chapter 162A of the General Statutes on or after that
32 date.