

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2023

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SENATE BILL DRS15088-MH-62

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

Sponsors: Senator Moffitt (Primary Sponsor).

Referred to:

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 any county that is or contains one or more political subdivisions organizing that authority under
32 this section, if that inclusion is permitted by the laws of the adjoining state. The governing body
33 of the political subdivision in the adjoining state must adopt a resolution that meets the
34 requirement of subsection (b) of this section and must also file the resolution with the Secretary
35 of State of North Carolina and provide proof of publication as required by subsection (c) of this
36 section. For all other purposes of this Article and notwithstanding the requirement of



1 G.S. 162A-2(7) that a political subdivision be located in this State, the unit of local government
2 in the adjoining state is considered a political subdivision.

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

4 (1) The name of the authority;

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

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

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

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

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

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

24 "**§ 162A-3.1. Alternative procedure for creation.**

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

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

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

47 (a3) An authority may include one or more units of local government in a state adjoining
48 any county that is or contains one or more political subdivisions organizing that authority under
49 this section, if that inclusion is permitted by the laws of the adjoining state. The governing body
50 of the political subdivision in the adjoining state must adopt a resolution that meets the
51 requirement of subsection (b) of this section and must also file the resolution with the Secretary

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

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

6 (1) The name of the authority;

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

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

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

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

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

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

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