

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1991

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SENATE BILL 453\*

Short Title: Stormwater Utilities.

(Public)

Sponsors: Senator Odom.

Referred to: Public Utilities.

April 1, 1991

A BILL TO BE ENTITLED

AN ACT TO CLARIFY THE PUBLIC ENTERPRISE LAW WITH RESPECT TO STORMWATER UTILITIES ESTABLISHED BY CITIES AND COUNTIES AND TO GIVE WATER AND SEWER AUTHORITIES THE ABILITY TO OPERATE AND FINANCE STORMWATER UTILITIES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 160A-314 reads as rewritten:

"§ 160A-314. Authority to fix and enforce rates.

(a) A city may establish and revise from time to time schedules of rents, rates, fees, charges, and penalties for the use of or the services furnished by any public enterprise. Schedules of rents, rates, fees, charges, and penalties may vary according to classes of service, and different schedules may be adopted for services provided outside the corporate limits of the city.

(a1) Before it establishes or revises a schedule of rates, fees, charges, or penalties for structural and natural stormwater and drainage systems under this section, the city council 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. The hearing may be held concurrently with the public hearing on the proposed budget ordinance.

Schedules of rates, fees, charges, and penalties for providing structural and natural stormwater and drainage system service may vary according to whether the property served is residential, commercial, or industrial property, the property's use, the size of the property, the area of impervious surfaces on the property, the quantity and quality of the runoff from the property, the characteristics of the watershed into which stormwater

1 from the property drains, and other factors that affect the stormwater drainage system.  
2 Rates, fees, and charges imposed under this section may not exceed the city's cost of  
3 providing a stormwater and drainage system.

4 (b) A city shall have power to collect delinquent accounts by any remedy  
5 provided by law for collecting and enforcing private ~~debts~~-debts, and may specify by  
6 ordinance the order in which partial payments are to be applied among the various  
7 enterprise services covered by the bill. A city may also discontinue service to any  
8 customer whose account remains delinquent for more than 10 days. When service is  
9 discontinued for delinquency, it shall be unlawful for any person other than a duly  
10 authorized agent or employee of the city to do any act that results in a resumption of  
11 services. If a delinquent customer is not the owner of the premises to which the services  
12 are delivered, the payment of the delinquent account may not be required before  
13 providing services at the request of a new and different tenant or occupant of the  
14 premises, but this restriction shall not apply when the premises are occupied by two or  
15 more tenants whose services are measured by the same meter.

16 (c) Except as provided in subsection (d), rents, rates, fees, charges, and penalties  
17 for enterprisory services shall be legal obligations of the person contracting for them,  
18 and shall in no case be a lien upon the property or premises ~~served~~-served, provided that  
19 no contract shall be necessary in the case of structural and natural stormwater and  
20 drainage systems.

21 (d) Rents, rates, fees, charges, and penalties for enterprisory services shall be  
22 legal obligations of the owner of the premises served when:

23 (1) The property or premises is leased or rented to more than one tenant  
24 and services rendered to more than one tenant are measured by the  
25 same meter.

26 (2) Charges made for use of a sewage system are billed separately from  
27 charges made for the use of a water distribution system.

28 (e) Nothing in this section shall repeal any portion of any city charter  
29 inconsistent herewith."

30 Sec. 2. G.S. 153A-277 reads as rewritten:

31 "**§ 153A-277. Authority to fix and enforce rates.**

32 (a) A county may establish and revise from time to time schedules of rents, rates,  
33 fees, charges, and penalties for the use of or the services furnished by a public  
34 enterprise. Schedules of rents, rates, fees, charges, and penalties may vary for the same  
35 class of service in different areas of the county and may vary according to classes of  
36 service, and different schedules may be adopted for services provided outside of the  
37 county.

38 (a1) Before it establishes or revises a schedule of rates, fees, charges, or penalties  
39 for structural and natural stormwater and drainage systems under this section, the board  
40 of commissioners shall hold a public hearing on the matter. A notice of the hearing  
41 shall be given at least once in a newspaper having general circulation in the area, not  
42 less than seven days before the public hearing. The hearing may be held concurrently  
43 with the public hearing on the proposed budget ordinance.

1 Schedules of rates, fees, charges, and penalties for providing structural and natural  
2 stormwater and drainage system service may vary according to whether the property  
3 served is residential, commercial, or industrial property, the property's use, the size of  
4 the property, the area of impervious surfaces on the property, the quantity and quality of  
5 the runoff from the property, the characteristics of the watershed into which stormwater  
6 from the property drains, and other factors that affect the stormwater drainage system.  
7 Rates, fees, and charges imposed under this section may not exceed the county's cost of  
8 providing a stormwater and drainage system.

9 (b) A county may collect delinquent accounts by any remedy provided by law for  
10 collecting and enforcing private ~~debts~~-debts, and may specify by ordinance the order in  
11 which partial payments are to be applied among the various enterprise services covered  
12 by the bill. A county may also discontinue service to a customer whose account  
13 remains delinquent for more than 10 days. If a delinquent customer is not the owner of  
14 the premises to which the services are delivered, the payment of the delinquent account  
15 may not be required before providing services at the request of a new and different  
16 tenant or occupant of the premises. If water or sewer services are discontinued for  
17 delinquency, it is unlawful for a person other than a duly authorized agent or employee  
18 of the county to reconnect the premises to the water or sewer system.

19 (c) Rents, rates, fees, charges, and penalties for enterprisory services are in no  
20 case a lien upon the property or premises served and, except as provided in subsection  
21 (d) of this section, are legal obligations of the person contracting for ~~them~~-them,  
22 provided that no contract shall be necessary in the case of structural and natural  
23 stormwater and drainage systems.

24 (d) Rents, rates, fees, charges, and penalties for enterprisory services are legal  
25 obligations of the owner of the property or premises served when:

- 26 (1) The property or premises is leased or rented to more than one tenant  
27 and services rendered to more than one tenant are measured by the  
28 same meter; or  
29 (2) Charges made for use of a sewerage system are billed separately from  
30 charges made for the use of a water distribution system."

31 Sec. 3. G.S. 162A-2(12) reads as rewritten:

32 " (12) The term 'water system' shall mean and include all plants,  
33 systems, facilities or properties used or useful or having the present  
34 capacity for future use in connection with the supply or distribution  
35 of ~~water~~-water or the control and drainage of stormwater runoff and  
36 any integral part thereof, including but not limited to water supply  
37 systems, water distribution systems, structural and natural  
38 stormwater and drainage systems of all types, sources of water  
39 supply including lakes, reservoirs and wells, intakes, mains, laterals,  
40 aqueducts, pumping stations, standpipes, filtration plants,  
41 purification plants, hydrants, meters, valves, and all necessary  
42 appurtenances and equipment and all properties, rights, easements  
43 and franchises relating thereto and deemed necessary or convenient  
44 by the authority for the operation thereof."

1           Sec. 4. G.S. 162A-9 reads as rewritten:

2   "**§ 162A-9. Rates and charges; contracts for water or services; deposits; delinquent**  
3   **charges.**

4       (a) Each authority shall fix, and may revise from time to time, reasonable rates,  
5 fees and other charges for the use of and for the services furnished or to be furnished by  
6 any water system or sewer system or parts thereof owned or operated by such authority.  
7 Such rates, fees and charges shall not be subject to supervision or regulation by any  
8 bureau, board, commission or other agency of the State or of any political subdivision.

9       Before an authority sets or revises rates, fees, or other charges for structural or  
10 natural stormwater and drainage system service, the authority shall hold a public  
11 hearing on the matter. At least seven days before the hearing, the authority shall publish  
12 notice of the public hearing in a newspaper having general circulation in the area. An  
13 authority may impose rates, fees, or other charges for stormwater and drainage system  
14 service on a person even though the person has not entered into a contract to receive the  
15 service.

16       ~~Such rates, fees~~ Rates, fees, and charges shall be fixed and revised so that the  
17 revenues of the authority, together with any other available funds, will be sufficient at  
18 all times:

19           (1) To pay the cost of maintaining, repairing and operating the systems  
20 or parts thereof owned or operated by the authority, including  
21 reserves for such purposes, and including provision for the payment  
22 of principal of and interest on indebtedness of a political subdivision  
23 or of political subdivisions which payment shall have been assumed  
24 by the authority, and

25           (2) To pay the principal of and the interest on all bonds issued by the  
26 authority under the provisions of this Article as the same shall  
27 become due and payable and to provide reserves therefor.

28       Schedules of rates, fees, charges, and penalties for providing structural and natural  
29 stormwater and drainage system service may vary according to whether the property  
30 served is residential, commercial, or industrial property, the property's use, the size of  
31 the property, the area of impervious surfaces on the property, the quantity and quality of  
32 the runoff from the property, the characteristics of the watershed into which stormwater  
33 from the property drains, and other factors that affect the stormwater drainage system.  
34 Rates, fees, and charges imposed under this section may not exceed the authority's cost  
35 of providing a stormwater and drainage system.

36       (b) Notwithstanding any of the foregoing provisions of this section, the authority  
37 may enter into contracts relating to the collection, treatment or disposal of sewage or the  
38 purchase or sale of water which shall not be subject to revision except in accordance  
39 with their terms.

40       (c) In order to insure the payment of such rates, fees and charges as the same  
41 shall become due and payable, the authority ~~may,~~ may do the following in addition to  
42 exercising any other remedies which it may have:

- 1           (1)     Require reasonable advance deposits to be made with it to be subject  
2           to application to the payment of delinquent rates, fees and ~~charges,~~  
3           ~~and charges.~~
- 4           (2)     At the expiration of 30 days after any ~~such~~ rates, fees and charges  
5           become delinquent, discontinue supplying water or the services and  
6           facilities of any water system or sewer system of the authority.
- 7           (3)     Specify the order in which partial payments are to be applied when a  
8           bill covers more than one service."

9           Sec. 5. No stormwater utility fee may be levied pursuant to this act whenever  
10          two or more units of local government operate separate structural and natural  
11          stormwater and drainage system services in the same area within a county. However,  
12          two or more units of local government may allocate among themselves the functions,  
13          duties, powers, and responsibilities for jointly operating a single structural and natural  
14          stormwater and drainage system service in the same area within a county, provided that  
15          only one unit may levy a fee pursuant to this act within the joint service area. For  
16          purposes of this section, a unit of local government shall include a regional authority  
17          providing structural and natural stormwater and drainage system services.

18          Sec. 6. This act is effective upon ratification.