

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1995

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SENATE BILL 469

Short Title: Joint Municipal Power Amendments.

(Public)

Sponsors: Senator Cooper.

Referred to: Judiciary I/Constitution

March 23, 1995

A BILL TO BE ENTITLED

1 AN ACT TO ENABLE JOINT MUNICIPAL POWER AGENCIES TO ENGAGE IN
2 ELECTRIC SYSTEM ACTIVITIES AT THE DISTRIBUTION LEVEL, TO
3 PERMIT TWO EXISTING JOINT MUNICIPAL POWER AGENCIES TO EFFECT
4 CORPORATE REORGANIZATION, AND TO MAKE TECHNICAL CHANGES
5 TO THE STATUTES GOVERNING JOINT MUNICIPAL POWER AGENCIES.
6

7 The General Assembly of North Carolina enacts:

8 Section 1. G.S. 159B-2 reads as rewritten:

9 **"§ 159B-2. Legislative findings and purposes.**

10 The General Assembly hereby finds and determines that:

11 A critical situation exists with respect to the present and future supply of electric
12 power and energy in the State of North Carolina;

13 The public utilities operating in the State have sustained greatly increased capital and
14 operating costs;

15 Such public utilities have found it necessary to postpone or curtail construction of
16 planned generation and transmission facilities serving the consumers of electricity in the
17 State, increasing the ultimate cost of such facilities to the public utilities, and that such
18 postponements and curtailments will have an adverse effect on the provision of adequate
19 and reliable electric service in the State;

20 The above conditions have occurred despite substantial increases in electric rates;

1 In the absence of further material increases in electric rates, additional postponements
2 and curtailments in the construction of additional generation and transmission facilities
3 may occur, thereby impairing those utilities' ability to continue to provide an adequate
4 and reliable source of electric power and energy in the State;

5 Seventy-two municipalities in the State have for many years owned and operated
6 systems for the distribution of electric power and energy to customers in their respective
7 service areas and are empowered severally to engage in the generation and transmission
8 of electric power and energy;

9 Such municipalities owning electric distribution systems have an obligation to provide
10 their inhabitants and customers an adequate, reliable and economical source of electric
11 power and energy in the future;

12 In order to achieve the economies and efficiencies made possible by the proper
13 planning, financing, sizing and location of facilities for the ~~generation and transmission~~
14 generation, transmission, and distribution of electric power and energy which are not
15 practical for any municipality acting alone, and to insure an adequate, reliable and
16 economical supply of electric power and energy to the people of the State, it is desirable
17 for the State of North Carolina to authorize municipal electric systems to jointly plan,
18 finance, develop, own and operate electric ~~generation and transmission~~ generation,
19 transmission, and distribution facilities appropriate to their needs in order to provide for
20 their present and future power requirements for all uses without supplanting or displacing
21 the service at retail of other electric suppliers operating in the State; and

22 The joint planning, financing, development, ownership and operation of electric
23 ~~generation and transmission~~ generation, transmission, and distribution facilities by
24 municipalities which own electric distribution systems and the issuance of revenue bonds
25 for such purposes as provided in this Chapter is for a public use and for public and
26 municipal purposes and is a means of achieving economies, adequacy and reliability in
27 the generation of electric power and energy and in the meeting of future needs of the
28 State and its inhabitants.

29 In addition to the authority granted municipalities to jointly plan, finance, develop,
30 own and operate electric ~~generation and transmission~~ generation, transmission, and
31 distribution facilities by Article 2 of this Chapter and the other powers granted in said
32 Article 2, and in addition and supplemental to powers otherwise conferred on
33 municipalities by the laws of this State for interlocal cooperation, it is desirable for the
34 State of North Carolina to authorize municipalities and joint agencies to form joint
35 municipal assistance agencies which shall be empowered to provide aid and assistance to
36 municipalities in the construction, ownership, maintenance, expansion and operation of
37 their electric systems, and to empower joint agencies authorized herein to provide aid and
38 assistance to municipalities or joint municipal assistance agencies in the development and
39 implementation of integrated resource planning, including, but not limited to, the
40 evaluation of resources, generating facilities, alternative energy resources, conservation
41 and load management programs, transmission and distribution facilities, and purchase
42 power options, and in the development, construction and operation of supply-side and
43 demand-side resources, in addition to exercising such other powers as hereinafter

1 provided to joint municipal assistance agencies and joint agencies. In order to provide
2 maximum economies and efficiencies to municipalities and the consuming public in the
3 ~~generation and transmission~~ generation, transmission, and distribution of electric power and
4 energy contemplated by Article 2 of this Chapter, it is also desirable that the joint
5 municipal assistance agencies authorized herein be empowered to act as provided in
6 Article 3 of this Chapter and that such agency or agencies be empowered to act for and
7 on behalf of any one or more ~~municipalities,~~ municipalities or joint agencies, as requested,
8 with respect to the construction, ownership, maintenance, expansion and operation of
9 their electric systems; and that the joint agencies authorized herein be empowered to act
10 as provided in Article 2 of this Chapter and that such ~~agency or joint~~ agencies be
11 empowered to act for and on behalf of any one or more municipalities or joint municipal
12 assistance agencies, in each case as requested, with respect to the integrated resource
13 planning and development, construction, and operation of supply-side and demand-side
14 options described ~~above.~~ above in addition to exercising such other powers provided in
15 this Chapter to joint municipal assistance agencies and joint agencies.

16 Market forces are affecting municipalities, joint agencies, and joint municipal
17 assistance agencies at the same time that their ability to respond to those forces is limited
18 by statute. It is in the best interest of the State of North Carolina that these public entities
19 individually and jointly have the flexibility to respond to these developments and other
20 challenges in the future in a responsible manner and for the benefit of the State and its
21 citizens. Accordingly, it is desirable that municipalities, joint agencies, and joint
22 municipal assistance agencies be permitted to exercise all of the powers described in this
23 Chapter to the fullest extent possible."

24 Sec. 2. G.S. 159B-3 reads as rewritten:

25 "**§ 159B-3. Definitions.**

26 The following terms whenever used or referred to in this Chapter shall have the
27 following respective meanings unless a different meaning clearly appears from the
28 context:

- 29 (1) 'Bonds' shall mean ~~electric~~ revenue bonds, notes and other evidences of
30 indebtedness of a joint agency or municipality issued under the
31 provisions of this Chapter and shall include refunding bonds.
- 32 (2) 'Cost' or 'cost of a project' shall mean, but shall not be limited to, the
33 cost of acquisition, construction, reconstruction, improvement,
34 enlargement, betterment or extension of any project, including the cost
35 of studies, plans, specifications, surveys, and estimates of costs and
36 revenues relating thereto; the cost of land, land rights, rights-of-way and
37 easements, water rights, fees, permits, approvals, licenses, certificates,
38 franchises, and the preparation of applications for and securing the
39 same; administrative, legal, engineering and inspection expenses;
40 financing fees, expenses and costs; working capital; initial fuel costs;
41 interest on the bonds during the period of construction and for such
42 reasonable period thereafter as may be determined by the issuing
43 municipality or joint agency (provided that a period of three years shall

1 be deemed to be reasonable for bonds issued to finance a generating unit
2 expected to be operated to supply base load); establishment of reserves;
3 and all other expenditures of the issuing municipality or joint agency
4 incidental, necessary or convenient to the acquisition, construction,
5 reconstruction, improvement, enlargement, betterment or extension of
6 any project and the placing of the same in operation. The term shall also
7 mean the capital cost of ~~nuclear~~-fuel for any project.

8 (2a) 'Electric system' shall mean any electric power generation, transmission
9 or distribution system.

10 (3) 'Governing board' shall mean the legislative body, council, board of
11 commissioners, board of trustees, or other body charged by law with
12 governing the municipality, joint agency, or joint municipal assistance
13 ~~agency-agency, including any executive committee created pursuant to~~
14 G.S. 159B-10.

15 (4) 'Joint agency' shall mean a public body and body corporate and politic
16 organized in accordance with the provisions of Article 2 of this Chapter.

17 (4a) 'Joint municipal assistance agency' shall mean a public body and body
18 corporate and politic organized in accordance with the provisions of
19 Article 3 of this Chapter.

20 (5) 'Municipality' shall mean a city, town or other unit of municipal
21 government created under the laws of the State, or any board, agency, or
22 commission thereof, or any constituent institution of The University of
23 North Carolina, as defined in Article 1 of Chapter 166 of the General
24 Statutes, owning a system or facilities for the generation, transmission
25 or distribution of electric power and energy for public and private uses.

26 (6) 'Project' shall mean any system or facilities for the generation,
27 ~~transmission and transmission, transformation, distribution, control,~~
28 conservation, management, and utilization, or any of them, of electric
29 power and energy by any means whatsoever including, but not limited
30 to, any one or more electric generating units situated at a particular site,
31 or any interest in the foregoing, whether an undivided interest as a
32 tenant in common or otherwise. Project does not mean an
33 administrative office building or office or facilities related to the
34 administrative office building or office.

35 (7) 'State' shall mean the State of North Carolina."

36 Sec. 3. G.S. 159B-4 reads as rewritten:

37 **"§ 159B-4. Authority of municipalities to jointly cooperate.**

38 In addition and supplemental to the powers otherwise conferred on municipalities by
39 the laws of the State, and in order to accomplish the purposes of this Chapter and to
40 obtain a supply of electric power and energy for the present and future needs of its
41 inhabitants and customers, a municipality may jointly or severally plan, finance, develop,
42 construct, reconstruct, acquire, improve, enlarge, better, own, operate and maintain a
43 project situated within or without the State with one or more other municipalities ~~in this~~

1 ~~State owning electric distribution facilities or any political subdivisions, agencies or~~
2 ~~instrumentalities of any state contiguous to this State or joint agencies created pursuant to this~~
3 ~~Chapter or Chapter or, in the case of projects for the generation and transmission of~~
4 ~~electric power and energy, jointly with any persons, firms, associations or corporations,~~
5 public or private, engaged in the generation, transmission or distribution of electric power
6 and energy for resale within ~~the~~-this State or any state contiguous to the State, and may
7 make such plans and enter into such contracts in connection therewith, not inconsistent
8 with the provisions of this Chapter, as are necessary or appropriate.

9 Prior to acquiring any ~~such~~-generation project the governing board shall determine the
10 needs of the municipality for power and energy based upon engineering studies and
11 reports, and shall not acquire a project in excess of that amount of capacity and the
12 energy associated therewith required to provide for its projected needs for power and
13 energy from and after the date the project is estimated to be placed in normal continuous
14 operation and for such reasonable period of time thereafter as shall be determined by the
15 governing board and approved by the North Carolina Utilities Commission in a
16 proceeding instituted pursuant to G.S. 159B-24. In determining the future power
17 requirements of a municipality, there shall be taken into account the following:

- 18 (1) The economies and efficiencies to be achieved in constructing on a large
19 scale facilities for the generation ~~and transmission~~ of electric power and
20 energy;
- 21 (2) The municipality's needs for reserve and peaking capacity and to meet
22 obligations under pooling and reserve sharing agreements reasonably
23 related to its needs for power and energy to which it is or may become a
24 party;
- 25 (3) The estimated useful life of such project;
- 26 (4) The estimated time necessary for the planning, development, acquisition
27 or construction of such project and the length of time required in
28 advance to obtain, acquire or construct additional power supply; and
- 29 (5) The reliability and availability of existing or alternative power supply
30 sources and the cost of such existing or alternative power supply
31 sources.

32 A determination by such governing board approved by the North Carolina Utilities
33 Commission based upon appropriate findings of the foregoing matters shall be conclusive
34 as to the quantity of the interest which a municipality may acquire in a generation project
35 unless a party to the proceeding aggrieved by the determination of said Commission shall
36 file notice of appeal pursuant to Article 5 of Chapter 62 of the General Statutes of North
37 Carolina.

38 Nothing herein contained shall prevent a municipality or municipalities from
39 undertaking studies to determine whether there is a need for a project or whether such
40 project is feasible."

41 Sec. 4. G.S. 159B-5 reads as rewritten:

42 **"§ 159B-5. Joint ownership of a project; provisions of the contract or agreement**
43 **with respect thereto.**

1 Each municipality shall own a project in proportion to the amount of the money
2 furnished or the value of property or other consideration supplied by it for the planning,
3 development, acquisition or construction thereof, and shall be entitled to a percentage
4 share of the output and capacity therefrom equal to such ownership proportion in such
5 project.

6 Each municipality shall be severally liable for its own acts and not jointly or severally
7 liable for the acts, omissions or obligations of others, and no money or property or other
8 consideration supplied by any municipality shall be credited or otherwise applied to the
9 account of any other municipality, nor shall the share of any municipality in a project be
10 charged directly or indirectly with any debt or obligation of any other municipality or be
11 subject to any lien as a result thereof. The acquisition of a project shall include, but shall
12 not be limited to, the purchase or lease of an existing, completed project and the purchase
13 of a project under construction. A municipality participating in the joint or several
14 planning, financing, construction, reconstruction, acquisition, improvement, enlargement,
15 betterment, ownership, operation or maintenance of any project under this Chapter may
16 furnish money derived solely from the proceeds of bonds or from the ownership and
17 operation of its electric system, or both, and provide property, both real and personal,
18 services and other considerations.

19 Any contracts entered into by municipalities with respect to ownership in a project
20 shall contain such terms, conditions and provisions, not inconsistent with the provisions
21 hereof, as the governing boards of the municipalities shall deem to be in the interests of
22 the municipalities. Any such contracts shall be ratified by resolution of the governing
23 board of each municipality spread upon its minutes. Any such contracts shall include, but
24 shall not be limited to, the following:

- 25 (1) The purpose or purposes of the contract;
- 26 (2) The duration of the contract;
- 27 (3) The manner of appointing or employing the personnel necessary in
28 connection with the project;
- 29 (4) The method of financing the project, including the apportionment of
30 costs and revenues;
- 31 (5) Provisions specifying the ownership interests of the parties in real
32 property used or useful in connection with the project, and the
33 procedures for the disposition of such property when the contract
34 expires, is terminated or when the project, for any reason, is abandoned,
35 decommissioned or dismantled;
- 36 (6) Provisions relating to alienation and prohibiting partition of a
37 municipality's interest in a project, which provisions shall not be subject
38 to any provision of law restricting covenants against alienation or
39 partition;
- 40 (7) Provisions for the construction of a project, which may include the
41 determination that one participating municipality or any person, firm or
42 corporation may construct the project as agent for all the parties;

- 1 (8) Provisions for the operation and maintenance of a project, which may
2 include the determination that one participating municipality or any
3 person, firm or corporation may operate and maintain the project as
4 agent for all the parties;
- 5 (9) Provisions for the creation of a committee of representatives of the
6 participating municipalities with such powers of supervision of the
7 construction and operation of the project as the contract, not inconsistent
8 with the provisions of this Chapter, may provide;
- 9 (10) Provisions that if one or more of the municipalities shall default in the
10 performance or discharge of its or their obligations with respect to the
11 project, the other party or parties may assume, pro rata or otherwise, the
12 obligations of such defaulting party or parties and may succeed to such
13 rights and interests of the defaulting party or parties in the project as
14 may be agreed upon in the contract;
- 15 (11) Methods for amending the contract;
- 16 (12) Methods for terminating the contract; and
- 17 (13) Any other necessary or proper matter.

18 For the purpose of paying its respective share of the cost of a project or projects, a
19 municipality may issue its bonds as provided in this Chapter, and, notwithstanding the
20 provisions of any other law to the contrary, may secure the payment of the principal of,
21 premium, if any, and interest on such bonds by a lien and charge on all, or any portion of,
22 the revenue derived or to be derived from the ownership and operation of its system or
23 facilities for the generation, transmission, or distribution of electric power or energy or its
24 interests in any project or projects, or a combination of such revenues. Provided that all
25 bonds issued under the provisions of this Chapter shall be authorized and issued by the
26 governing board of a city, town, or other unit of municipal government created under the
27 laws of the State.

28 In connection with any project undertaken pursuant to this Chapter, a municipality
29 shall have all of the rights and powers granted to a joint agency by subdivisions ~~(12)~~
30 ~~and (13)~~ (12), (13), and (16) of G.S. ~~159B-11~~ 159B-11, but a municipality's
31 power of sale pursuant to G.S. 159B-11(16) is not limited to resale.

32 Notwithstanding the provisions of any other law to the contrary, any contracts with
33 respect to the sale or purchase of capacity, output, power or energy from a project may
34 extend for a period not exceeding 50 years from the date a project is estimated to be
35 placed in normal continuous operation; and the execution and effectiveness thereof shall
36 not be subject to any authorizations or approvals by the State or any agency, commission
37 or instrumentality or political subdivision thereof except as in this Chapter specifically
38 required and provided."

39 Sec. 5. G.S 159B-5.1 reads as rewritten:

40 "**§ 159B-5.1. Joint ownership with other public or private entities engaged in**
41 **generation, transmission or distribution of electric power for resale. of**
42 **projects.**

1 Municipalities and joint agencies may jointly or severally own, operate and maintain
2 ~~projects~~ projects or, in the case of projects for the generation and transmission of electric
3 power and energy, jointly with any person, firm, association or corporation, public or
4 private, engaged in the generation, transmission or distribution of electric power and
5 energy for resale within this State or any state contiguous to this State. Any municipality
6 or joint agency shall have for such purposes all powers conferred upon them by the
7 provisions of this Chapter including the power to issue revenue bonds pursuant to the
8 provisions of this Chapter to finance its share of the cost of any such project. The
9 definitions and all other terms and provisions of this Chapter shall be construed so as to
10 include such undivided ownership interest in order to fully effectuate the power and
11 authority conferred by the foregoing provisions of this section."

12 Sec. 6. G.S. 159B-6 is repealed.

13 Sec. 7. G.S. 159B-8 is repealed.

14 Sec. 8. G.S. 159B-9 reads as rewritten:

15 **"§ 159B-9. Creation of a joint agency; board of commissioners.**

16 (a) The governing boards of two or more municipalities may by resolution or
17 ordinance determine that it is in the best interests of the municipalities in accomplishing
18 the purposes of this Chapter to create a joint agency as prescribed herein for the purpose
19 of undertaking the planning, financing, development, acquisition, construction,
20 reconstruction, improvement, enlargement, betterment, operation and maintenance of a
21 project or projects ~~to supply electric power and energy for their present or future needs~~ as an
22 alternative or supplemental method of obtaining the benefits and assuming the
23 responsibilities of ownership in a project.

24 In determining whether or not creation of a joint agency for such purpose is in the best
25 interests of the municipalities, the governing boards shall take into consideration, but
26 shall not be limited to, the following:

- 27 (1) Whether or not a separate entity may be able to finance the cost of
28 projects in a more efficient and economical manner;
- 29 (2) Whether or not better financial market acceptance may result if one
30 entity is responsible for issuing all of the bonds required for a project or
31 projects in a timely and orderly manner and with a uniform credit rating
32 instead of multiple entities issuing separate issues of bonds;
- 33 (3) Whether or not savings and other advantages may be obtained by
34 providing a separate entity responsible for the acquisition, construction,
35 ownership and operation of a project or projects; and
- 36 (4) Whether or not the existence of such a separate entity will foster the
37 continuation of joint planning and undertaking of projects, and the
38 resulting economies and efficiencies to be derived from such joint
39 planning and undertaking.

40 If each governing board shall determine that it is in the best interest of the
41 municipality to create a joint agency ~~to provide power and energy to the municipality~~ as
42 provided in this Chapter, each shall adopt a resolution or ordinance so finding (which
43 need not prescribe in detail the basis for the determination), and which shall set forth the

1 names of the municipalities which are proposed to be initial members of the joint agency.
2 The governing board of the municipality shall thereupon by ordinance or resolution
3 appoint one commissioner of the joint agency who may, at the discretion of the governing
4 board, be an officer or employee of the municipality.

5 Any two or more commissioners so named may file with the Secretary of State an
6 application signed by them setting forth (i) the names of all the proposed member
7 municipalities; (ii) the name and official residence of each of the commissioners so far as
8 known to them; (iii) a certified copy of the appointment evidencing their right to office;
9 (iv) a statement that each governing board of each respective municipality appointing a
10 commissioner has made the aforesaid determination; (v) the desire that a joint agency be
11 organized as a public body and a body corporate and politic under this Chapter; and (vi)
12 the name which is proposed for the joint agency.

13 The application shall be subscribed and sworn to by such commissioners before an
14 officer or officers authorized by the laws of the State to administer and certify oaths.

15 The Secretary of State shall examine the application and, if he finds that the name
16 proposed for the joint agency is not identical with that of any other corporation of this
17 State or of any agency or instrumentality thereof, or so nearly similar as to lead to
18 confusion and uncertainty, he shall receive and file it and shall record it in an appropriate
19 book of record in his office.

20 When the application has been made, filed and recorded as herein provided, the joint
21 agency shall constitute a public body and a body corporate and politic under the name
22 proposed in the application. The Secretary of State shall make and issue to the
23 commissioners executing the application a certificate of incorporation pursuant to this
24 Chapter under the seal of the State, and shall record the same with the application. The
25 certificate shall set forth the names of the member municipalities.

26 In any suit, action or proceeding involving the validity or enforcement of, or relating
27 to, any contract of the joint agency, the joint agency, in the absence of establishing fraud
28 in the premises, shall be conclusively deemed to have been established in accordance
29 with the provisions of this Chapter upon proof of the issuance of the aforesaid certificate
30 by the Secretary of State. A copy of such certificate, duly certified by the Secretary of
31 State, shall be admissible in evidence in any such suit, action or proceeding, and shall be
32 conclusive proof of the filing and contents thereof.

33 Notice of the issuance of such certificate shall be given to all of the proposed member
34 municipalities by the Secretary of State. If a commissioner of any such municipality has
35 not signed the application to the Secretary of State and such municipality does not notify
36 the Secretary of State of the appointment of a commissioner within 40 days after receipt
37 of such notice, such municipality shall be deemed to have elected not to be a member of
38 the joint agency. As soon as practicable after the expiration of such 40-day period, the
39 Secretary of State shall issue a new certificate of incorporation, if necessary, setting forth
40 the names of those municipalities which have elected to become members of the joint
41 agency. The failure of any proposed member to become a member shall not affect the
42 validity of the corporate existence of the joint agency.

1 (b) After the creation of a joint agency, any other municipality may become a
2 member thereof upon application to such joint agency after the adoption of a resolution or
3 ordinance by the governing board of the municipality setting forth the determination and
4 finding prescribed in paragraph (a) of this G.S. 159B-9, and authorizing said municipality
5 to participate, and with the unanimous consent of the members of the joint agency
6 evidenced by the resolutions of their respective governing bodies. Any municipality may
7 withdraw from a joint agency, provided, however, that all contractual rights acquired and
8 obligations incurred while a municipality was a member shall remain in full force and
9 effect.

10 (c) The powers of a joint agency shall consist of a board be exercised by or under
11 the authority of, and the business and affairs of a joint agency shall be managed under the
12 direction of, its board of commissioners. However, all or a portion of those powers and
13 the management of all or any part of the business and affairs of a joint agency may be
14 exercised by an executive committee created pursuant to G.S. 159B-10. The board of
15 commissioners shall consist of commissioners appointed by the respective governing
16 boards of the municipalities which are members of the joint agency. Each commissioner
17 shall have not less than one vote and may have in addition thereto such additional votes
18 as the governing boards of a majority of the municipalities which are members of the
19 agency shall determine. Each commissioner shall serve at the pleasure of the governing
20 board by which ~~he~~ the commissioner was appointed. Each appointed commissioner
21 before entering upon his duties shall take and subscribe to an oath before some person
22 authorized by law to administer oaths to execute the duties of his office faithfully and
23 impartially, and a record of each such oath shall be filed with the governing board of the
24 appointing municipality and spread upon its minutes. The governing board of each of the
25 municipalities may appoint up to two alternate commissioners to act in lieu of its
26 appointed commissioner when the appointed commissioner is unable for any reason to
27 attend meetings of the board of commissioners or any committee thereof, and the
28 governing board shall designate them as first or second alternate commissioner. Each
29 alternate commissioner shall serve at the pleasure of the governing body by which ~~he~~ is
30 that commissioner was appointed and shall take, subscribe to and file an oath in the same
31 manner as prescribed for regularly appointed commissioners. Such alternate
32 commissioner when acting in lieu of the regularly appointed commissioner shall be
33 deemed to be the commissioner of such municipality, and shall have the rights, powers
34 and authority of the regularly appointed commissioner, including any committee function
35 of said commissioner, other than such commissioner's position as an officer pursuant to
36 paragraph (d) of this G.S. 159B-9. A certificate entered into the minutes of the board of
37 commissioners of a joint agency by the clerk or other custodian of the minutes and
38 records of the governing body of a municipality, appointing commissioners and alternate
39 commissioners and reciting their appointments, shall constitute conclusive evidence of
40 their appointment. The offices of commissioner, alternate commissioner, or officer of a
41 joint agency are hereby declared to be offices which may be held by the holders of any
42 office, place of trust or profit in addition to and concurrently with those offices permitted
43 by G.S. 128-1.1 and other offices permitted by other General Statute.

1 (d) The board of commissioners of the joint agency shall annually elect one of the
2 commissioners as chairman, another as vice-chairman, and another person or persons,
3 who may but need not be commissioners, as treasurer, secretary, and, if desired, assistant
4 ~~secretary~~ ~~secretary and assistant treasurer.~~ The office of treasurer or assistant treasurer
5 may be held by the secretary or assistant secretary. The board of commissioners may also
6 appoint such additional officers as it deems necessary. The secretary or any assistant
7 secretary of the joint agency shall keep a record of the proceedings of the joint agency,
8 and the secretary shall be the custodian of all records, books, documents and papers filed
9 with the joint agency, the minute book or journal of the joint agency and its official seal.
10 Either the secretary or the assistant secretary of the joint agency may cause copies to be
11 made of all minutes and other records and documents of the joint agency and may give
12 certificates under the official seal of the joint agency to the effect that such copies are true
13 copies, and all persons dealing with the joint agency may rely upon such certificates.

14 (e) A majority of the commissioners of a joint agency then in office shall
15 constitute a quorum. A vacancy in the board of commissioners of the joint agency shall
16 not impair the right of a quorum to exercise all the rights and perform all the duties of the
17 joint agency. Any action taken by the joint agency under the provisions of this Chapter
18 may be authorized by resolution at any regular or special meeting, and each such
19 resolution ~~shall~~ may take effect immediately and need not be published or posted. A
20 majority of the votes which the commissioners present are entitled to cast shall be
21 necessary and sufficient to take any action or to pass any resolution, provided that such
22 commissioners present are entitled to cast a majority of the votes of all commissioners of
23 the board.

24 (f) No commissioner of a joint agency shall receive any compensation for the
25 performance of his duties hereunder, provided, however, that each commissioner may be
26 paid his necessary expenses incurred while engaged in the performance of such duties."

27 Sec. 9. G.S. 159B-10 reads as rewritten:

28 **"§ 159B-10. Executive committee, composition; powers and duties; terms.**

29 ~~The board of commissioners of the joint agency may create an executive committee of~~
30 ~~the board of commissioners. The board may provide for the composition of the executive~~
31 ~~committee so as to afford, in its judgment, fair representation of the member~~
32 ~~municipalities. The executive committee shall have and shall exercise such of the powers~~
33 ~~and authority of the board of commissioners during the intervals between the board's~~
34 ~~meetings as shall be prescribed in the board's rules, motions and resolutions. The terms of~~
35 ~~office of the members of the executive committee and the method of filling vacancies~~
36 ~~therein shall be fixed by the rules of the board of commissioners of the joint agency.~~

37 (a) The board of commissioners of a joint agency may create an executive
38 committee by resolution. The board may provide for the composition and terms of office
39 of, and the method of filling vacancies on, the executive committee. The executive
40 committee may include representatives of the joint agency, representatives of any other
41 joint agency, and any other persons. The executive committee of a joint agency may
42 simultaneously act as the executive committee of any other joint agency or agencies, or
43 joint municipal assistance agency or agencies, if so provided by all such entities, and also

1 may simultaneously act as the sole governing board of any joint municipal assistance
2 agency created by two or more joint agencies pursuant to G.S. 159B-45 if so provided by
3 all such joint agencies. An executive committee acting as the sole governing board of a
4 joint municipal assistance agency shall not be subject to the limitations on the powers and
5 authority of executive committees set forth in subsection (b) of this section.

6 (b) Except as limited by resolution of the board of commissioners creating an
7 executive committee and except as otherwise provided in this subsection, an executive
8 committee shall have and shall exercise all of the powers and authority of the board of
9 commissioners creating the executive committee. However, the executive committee
10 shall not have the power or authority to (i) amend any resolution of the board of
11 commissioners of the joint agency relating to the creation of the executive committee or
12 providing for its powers or authority; or (ii) adopt or amend a budget. Any rate for a joint
13 agency adopted by an executive committee may be rejected, within 30 days following the
14 adoption of the rate, by the vote of two-thirds in number of the commissioners
15 representing the joint agency members affected by the rate. In the event that any rate is
16 rejected in this manner, the executive committee shall, within 10 days following the
17 action on the part of the commissioners, adopt a second rate for that joint agency, which
18 may be the same rate as previously adopted. This second rate may be rejected, within 10
19 days following the adoption of the rate, by a vote of two-thirds in number of the
20 commissioners representing the joint agency members affected by the rate. If a second
21 rate adopted by the executive committee is rejected in this manner, the board of
22 commissioners of the affected joint agency shall, acting by weighted vote, adopt a rate for
23 the joint agency which is sufficient at least to comply with the requirements of G.S.
24 159B-17(b). No such rate adopted by the executive committee shall become effective so
25 long as it is subject to rejection by commissioners of a joint agency as provided for in this
26 subsection. However, if the executive committee determines that the establishment of a
27 rate is required within 50 days to enable a joint agency to satisfy the requirements of G.S.
28 159B-17(b), the rate adopted by the executive committee shall be effective until changed
29 by the executive committee or board of commissioners in accordance with this
30 subsection.

31 (c) Each member of the executive committee shall have one vote and shall serve at
32 the pleasure of the governing board by which the member was appointed. Before
33 performing duties as a member, each member shall take and subscribe to an oath before
34 some person authorized by law to administer oaths to execute the duties of the office
35 faithfully and impartially, and a record of each oath shall be filed with the governing
36 board appointing the member and spread upon its minutes. The office of a member of an
37 executive committee may be held by the holders of any office, place of trust or profit in
38 addition to and concurrently with those offices permitted by G.S. 128-1.1 and other
39 offices permitted by law.

40 The executive committee shall annually elect from its membership a chair and vice-
41 chair, and shall elect another person or persons, who need not be members, to serve as
42 secretary and, if desired, assistant secretary. The secretary or any assistant secretary of
43 the executive committee shall keep a record of the proceedings of the executive

1 committee, and the secretary shall be the custodian of all records, books, documents, and
2 papers filed with the executive committee, as well as the minute book or journal of the
3 executive committee. Either the secretary or the assistant secretary of the executive
4 committee may cause copies to be made of all minutes and other records and documents
5 of the executive committee and may give certificates of the executive committee to the
6 effect that the copies are true copies, and all persons dealing with the executive
7 committee may rely upon those certificates.

8 (e) A majority of the members of an executive committee then serving shall
9 constitute a quorum. A vacancy on the executive committee shall not impair the right of
10 a quorum to exercise all the rights and perform all the duties of the executive committee.
11 Any action taken by the executive committee under the provisions of this Chapter may be
12 authorized by resolution at any regular or special meeting, and each such resolution may
13 take effect immediately and need not be published or posted. A vote of the majority of
14 the members present shall be necessary and sufficient to take any action or to pass any
15 resolution, provided that those members present are entitled to cast a majority of the
16 votes of all members of the executive committee.

17 (f) Members of the executive committee, and of any subcommittee created by the
18 executive committee, may receive compensation and be paid expenses for the
19 performance of their duties as determined by the board or boards of commissioners
20 creating that executive committee. However, for any member of an executive committee
21 who is an employee of a municipality, a payment in lieu of any compensation shall be
22 made to the municipality for distribution to the executive committee member in the
23 manner and amount, if any, it deems appropriate. An executive committee for more than
24 one entity may be referred to as a board of directors of any or each of those entities."

25 Sec. 10. G.S. 159B-11 reads as rewritten:

26 **"§ 159B-11. General powers of joint agencies; prerequisites to undertaking projects.**

27 Each joint agency shall have all of the rights and powers necessary or convenient to
28 carry out and effectuate the purposes and provisions of this Chapter, including, but
29 without limiting the generality of the foregoing, the rights and powers:

- 30 (1) To adopt bylaws for the regulation of the affairs and the conduct of its
31 business, and to prescribe rules, regulations and policies in connection
32 with the performance of its functions and duties;
- 33 (2) To adopt an official seal and alter the same at pleasure;
- 34 (3) To acquire and maintain an administrative office building or office at
35 such place or places as it may determine, which building or office may
36 be used or owned alone or together with any other joint agency or
37 agencies, joint municipal assistance agency, municipalities,
38 corporations, associations or persons under such terms and provisions
39 for sharing costs and otherwise as may be ~~determined~~-determined;
- 40 (4) To sue and be sued in its own name, and to plead and be impleaded;
- 41 (5) To receive, administer and comply with the conditions and requirements
42 respecting any gift, grant or donation of any property or money;

- 1 (6) To acquire by purchase, lease, gift, or otherwise, or to obtain options for
2 the acquisition of, any property, real or personal, improved or
3 unimproved, including an interest in land less than the fee thereof;
- 4 (7) To sell, lease, exchange, transfer or otherwise dispose of, or to grant
5 options for any such purposes with respect to, any real or personal
6 property or interest therein;
- 7 (8) To pledge, assign, mortgage or otherwise grant a security interest in any
8 real or personal property or interest therein, including the right and
9 power to pledge, assign or otherwise grant a security interest in any
10 money, rents, charges or other revenues and any proceeds derived by the
11 joint agency from the sales of property, insurance or condemnation
12 ~~awards.~~ awards;
- 13 (9) To issue bonds of the joint agency for the purpose of providing funds
14 for any of its corporate purposes;
- 15 (10) To study, plan, finance, construct, reconstruct, acquire, improve,
16 enlarge, extend, better, own, operate and maintain one or more projects,
17 either individually or jointly with one or more municipalities ~~in~~ or joint
18 agencies or, in the case of projects for the generation and transmission
19 of electric power and energy, jointly with any person, firm, association,
20 or corporation, public or private, engaged in the generation,
21 transmission, or distribution of electric power and energy for resale
22 within this State or any state contiguous to this State owning electric
23 distribution facilities or with any political subdivisions, agencies or
24 instrumentalities of any state contiguous to this State or with other joint
25 agencies created pursuant to this Chapter, and to pay all or any part of the
26 costs thereof from the proceeds of bonds of the joint agency or from any
27 other available funds of ~~made available to~~ the joint agency; no provisions
28 of law with respect to the acquisition, construction, or operation of
29 property by other public bodies shall be applicable to any project as
30 defined in this Chapter and as authorized by this subdivision unless the
31 General Assembly shall specifically so state;
- 32 (11) To authorize the construction, operation or maintenance of any project
33 or projects by any person, ~~firm or corporation,~~ including ~~political~~
34 ~~subdivisions and agencies of any state, or of the United States;~~ firm,
35 association, or corporation, public or private;
- 36 (12) To acquire by private negotiated purchase or lease or otherwise an
37 existing project, a project under construction, or other property, either
38 individually or jointly, with one or more municipalities or joint agencies
39 or, in the case of projects for the generation and transmission of electric
40 power and energy, jointly with any person, firm, association, or
41 corporation, public or private, engaged in the generation, transmission,
42 or distribution of electric power and energy for resale within this State
43 or any state contiguous to this State owning electric distribution facilities or

1 with any political subdivisions, agencies or instrumentalities of any state
2 contiguous to this State or with other joint agencies created pursuant to this
3 Chapter; State; to acquire by private negotiated purchase or lease or
4 otherwise any facilities for the development, production, manufacture,
5 procurement, handling, storage, fabrication, enrichment, processing or
6 reprocessing of fuel of any kind or any facility or rights with respect to
7 the supply of water, and to enter into agreements by private negotiation
8 or otherwise, for a period not exceeding fifty (50) years, for the
9 development, production, manufacture, procurement, handling, storage,
10 fabrication, enrichment, processing or reprocessing of fuel of any kind
11 or any facility or rights with respect to the supply of water; no
12 provisions of law with respect to the acquisition, construction or
13 operation of property by other public bodies shall be applicable to any
14 agency created pursuant to this Chapter unless the legislature shall
15 specifically so state;

16 (13) To dispose of by private negotiated sale or lease, or otherwise otherwise,
17 an existing project, project or a project under construction, or other
18 property either individually or jointly with one or more municipalities in this
19 State or any state contiguous to this State owning electric distribution facilities
20 or with any political subdivisions, agencies or instrumentalities of any state
21 contiguous to this State or with other joint agencies created pursuant to this
22 Chapter; any part of or interest in such a project, or other property; to
23 dispose of by private negotiated sale or lease, or otherwise any facilities
24 for the development, production, manufacture, procurement, handling,
25 storage, fabrication, enrichment, processing or reprocessing of fuel of
26 any kind or any facility or rights with respect to the supply of water; no
27 provisions of law with respect to the disposition of property by other
28 public bodies shall be applicable to an agency created pursuant to this
29 Chapter unless the legislature shall specifically so state;

30 (14) To fix, charge and collect rents, rates, fees and charges for electric
31 power or energy and other services, facilities and commodities sold,
32 furnished or supplied through any project; project or activity;

33 (15) To generate, produce, transmit, deliver, exchange, interchange, wheel,
34 pool, conserve, control, manage, purchase, or sell for resale only, or
35 provide for the distribution and utilization of, electric power or energy,
36 and to enter into contracts for any or all such purposes; energy;

37 (16) To negotiate and enter into contracts for the purchase, sale, sale for
38 resale only, exchange, interchange, wheeling, pooling, transmission or
39 use of electric power and energy with any municipality in this State or any
40 other state owning electric distribution facilities or with any political
41 subdivisions, agencies or instrumentalities of any other state or with other
42 joint agencies created pursuant to this Chapter, any electric membership
43 corporation, any public utility, and any state, federal or municipal agency
44 which owns electric generation, transmission or distribution facilities in this

- 1 ~~State or any other state; any person, firm, association, or corporation,~~
2 ~~public or private;~~
- 3 (17) To make and execute contracts and other instruments necessary or
4 convenient in the exercise of the powers and functions of the joint
5 agency under this Chapter, including contracts with persons, firms,
6 ~~corporations and others; associations, or corporations, public or private;~~
- 7 (18) To apply to the appropriate agencies of the State, the United States or
8 any state thereof, and to any other proper ~~agency~~ agency, for such
9 permits, licenses, certificates or approvals as may be necessary, and to
10 construct, maintain and operate projects and undertake other activities in
11 accordance with such licenses, permits, certificates or approvals, and to
12 obtain, hold and use such licenses, permits, certificates and approvals in
13 the same manner as any other person or operating unit of any other
14 person;
- 15 (19) To employ engineers, architects, attorneys, real estate counselors,
16 appraisers, financial advisors and such other consultants and employees
17 as may be required in the judgment of the joint agency and to fix and
18 pay their compensation from funds available to the joint agency therefor
19 and to select and retain subject to approval of the Local Government
20 Commission the financial consultants, underwriters and bond attorneys
21 to be associated with the issuance of any bonds and to pay for services
22 rendered by underwriters, financial consultants or bond attorneys out of
23 the proceeds of any such issue with regard to which the services were
24 performed;
- 25 (19a) To purchase power and energy, and services and facilities relating to the
26 utilization of power and energy, from any source on behalf of its
27 members and other customers and to furnish, sell, lease, exchange,
28 transfer, or otherwise dispose of, or to grant options for any such
29 purposes with respect to the same, to its members and other customers
30 in such amounts, with such characteristics, for such periods of time and
31 under such terms and conditions as the governing board of
32 ~~commissioners~~ of the joint agency shall determine;
- 33 (19b) ~~To provide aid and assistance to municipalities, and to act for or on~~
34 ~~behalf of any municipality, in any activity related to the development~~
35 ~~and implementation of integrated resource planning, including, but not~~
36 ~~limited to, the evaluation of resources, generating facilities, alternative~~
37 ~~energy resources, conservation and load management programs,~~
38 ~~transmission and distribution facilities, and purchased power options,~~
39 ~~and related to the development, construction and operation of supply-~~
40 ~~side and demand side resources, and to do such other acts and things as~~
41 ~~provided in Article 3 of this Chapter as if the joint agency were a joint~~
42 ~~municipal assistance agency, and to carry out the powers granted in this~~
43 ~~Chapter in relation thereto; to provide aid and assistance to any joint~~

1 ~~municipal assistance agency in the exercise of its respective powers and~~
2 ~~functions; and~~

3 To provide aid and assistance to municipalities, and with the consent of
4 any municipality, to act for or on behalf of that municipality, in any
5 activity related to

6 a. The development and implementation of integrated resource
7 planning, including, but not limited to, the evaluation of
8 resources, generating facilities, alternative energy resources,
9 conservation and load management programs, transmission and
10 distribution facilities, and purchased power options, or

11 b. The planning, development, construction, operation, and
12 maintenance of

13 1. Supply-side and demand-side resources, or

14 2. Electric systems,

15 and to do such other acts and things, and have all the rights and powers,
16 as provided in Article 3 of this Chapter as if the joint agency were a
17 joint municipal assistance agency, and to carry out the powers granted
18 in this Chapter in relation thereto;

19 (19c) To provide aid and assistance, including the making of grants and loans,
20 to one or more municipalities to enable them to exercise or facilitate
21 their powers under G.S. 158-7.1(a) and (b), but only (i) in the case of a
22 loan, if and to the extent that the municipality is authorized by the
23 Constitution and General Statutes of North Carolina to incur debt and
24 borrow money for that purpose, upon compliance by that municipality
25 with those requirements of the Constitution and General Statutes; and
26 (ii) if the joint agency reasonably anticipates that the making of the
27 grant or loan will result in economic benefit to the municipality and will
28 not adversely affect the joint agency or its members;

29 (19d) To provide aid and assistance to any joint municipal assistance agency
30 in the exercise of its respective powers and functions;

31 (19e) To make grants or loans to one or more municipalities for any lawful
32 purpose related to their electric systems, including generation,
33 transmission, transformation, distribution, control, conservation
34 management, and utilization of electric power and energy, but only (i) in
35 the case of a loan, if and to the extent that the municipality is authorized
36 by the Constitution and General Statutes of North Carolina to incur debt
37 and borrow money for that purpose, upon compliance by that member
38 with those requirements of the Constitution and General Statutes; and
39 (ii) if the joint agency reasonably anticipates that the making of the
40 grant or loan will result in economic benefit to the municipality and will
41 not adversely affect the joint agency or its members; and

- 1 (20) To do all acts and things necessary, convenient or desirable to carry out
2 the purposes, and to exercise the powers granted to the joint agency
3 ~~therein.~~ in this Chapter.

4 No joint agency shall undertake any project required to be financed, in whole or in
5 part, with the proceeds of bonds without the approval of a majority of its members.
6 Before undertaking any ~~project,~~ project consisting of a system or facilities for the
7 generation of power and energy, a joint agency shall, based upon engineering studies and
8 reports, determine that such project is required to provide for the projected needs for
9 power and energy of its members from and after the date the project is estimated to be
10 placed in normal and continuous operation and for a reasonable period of time thereafter.
11 Prior to or simultaneously with granting a certificate of public convenience and necessity
12 for any such generation project the North Carolina Utilities Commission, in a proceeding
13 instituted pursuant to G.S. 159B-24 of this Chapter, shall approve such determination. In
14 determining the future power requirements of the members of a joint agency, there shall
15 be taken into account the following:

- 16 (1) The economies and efficiencies to be achieved in constructing on a large
17 scale facilities for the ~~generation and transmission~~ of electric power and
18 energy;
19 (2) Needs of the joint agency for reserve and peaking capacity and to meet
20 obligations under pooling and reserve-sharing agreements reasonably
21 related to its needs for power and energy to which the joint agency is or
22 may become a party;
23 (3) The estimated useful life of such project;
24 (4) The estimated time necessary for the planning, development,
25 acquisition, or construction of such project and the length of time
26 required in advance to obtain, acquire or construct additional power
27 supply for the members of the joint agency;
28 (5) The reliability and availability of existing alternative power supply
29 sources and the cost of such existing alternative power supply sources.

30 A determination by the joint agency approved by the North Carolina Utilities
31 Commission based upon appropriate findings of the foregoing matters shall be conclusive
32 as to the appropriateness of a project to provide the needs of the members of a joint
33 agency for power and energy unless a party to the proceeding aggrieved by the
34 determination of said Commission shall file notice of appeal pursuant to Article 5 of
35 Chapter 62 of the General Statutes of North Carolina.

36 Nothing herein contained shall prevent a joint agency from undertaking studies to
37 determine whether there is a need for a project or whether such project is feasible."

38 Sec. 11. G.S. 159B-12 reads as rewritten:

39 "**§ 159B-12. Sale of capacity and output by a joint agency; other contracts with a**
40 **joint agency.**

41 Any municipality which is a member of the joint agency may contract to buy from the
42 joint agency power and energy for its present or future requirements, including the
43 capacity and output of one of more specified generation or transmission projects. As the

1 creation of a joint agency is an alternative method whereby a municipality may obtain the
2 benefits and assume the responsibilities of ownership in a project, any such contract may
3 provide that the municipality so contracting shall be obligated to make the payments
4 required by the contract whether or not a project is completed, operable or operating and
5 notwithstanding the suspension, interruption, interference, reduction or curtailment of the
6 output of a project or the power and energy contracted for, and that such payments under
7 the contract shall not be subject to any reduction, whether by offset or otherwise, and
8 shall not be conditioned upon the performance or nonperformance of the joint agency or
9 any other member of the joint agency under the contract or any other instrument. Any
10 contract with respect to the sale or purchase of capacity or output of a project entered into
11 between a joint agency and its member municipalities may also provide that if one or
12 more of such municipalities shall default in the payment of its or their obligations with
13 respect to the purchase of said capacity or output, then in that event the remaining
14 member municipalities which are purchasing capacity and output under the contract shall
15 be required to accept and pay for and shall be entitled proportionately to and may use or
16 otherwise dispose of the capacity or output which was to be purchased by the defaulting
17 municipality. Notwithstanding the provisions of any other law to the contrary, any such
18 contract with respect to the sale or purchase of capacity, output, power, or energy from a
19 project may extend for a period not exceeding 50 years from the date a project is
20 estimated to be placed in normal continuous operation.

21 ~~Notwithstanding the provisions of any other law to the contrary, any such contract~~
22 ~~with respect to the sale or purchase of capacity, output, power or energy from a project~~
23 ~~may extend for a period not exceeding 50 years from the date a project is estimated to be~~
24 ~~placed in normal continuous operation.—Any municipality may contract with a joint~~
25 ~~agency, or may contract indirectly with a joint agency through a joint municipal~~
26 ~~assistance agency, with respect to a project, for the provision of services and facilities~~
27 ~~relating to the utilization of power and energy and to implement the provisions of G.S.~~
28 ~~159B-11(19b) through G.S. 159B-11(19e).~~ Notwithstanding the provisions of any
29 law to the contrary, including, but not limited to, the provisions of G.S. 159B-44(13), any
30 contract between a joint agency and a municipality or a joint municipal assistance agency
31 (or between a municipality and a joint municipal assistance agency) to provide aid and
32 assistance in the development and implementation of integrated resource planning, and
33 the development, construction, and operation of supply side and demand side resources,
34 and any contract providing for payments by any municipality directly to any joint agency
35 (or indirectly to any joint agency through a joint municipal assistance agency) or by any
36 joint municipal assistance agency to any joint agency for the provision of aid and
37 assistance in the development and implementation of integrated resource planning, and
38 the development, construction, and operation of supply side and demand side resources,
39 implement the provisions of G.S. 159B-11(19b) through G.S. 159B-11(19e) may extend
40 for a period not exceeding 30 years; provided, that any such contract in respect of a
41 capital project to be used by or for the benefit of a municipality shall be subject to the
42 prior approval of the Local Government Commission of North Carolina. In reviewing any
43 such contract for approval, said Local Government Commission shall consider the

1 municipality's debt management procedures and policies, whether the municipality is in
2 default with respect to its debt service obligations and such other matters as said Local
3 Government Commission may believe to have a bearing on whether the contract should
4 be approved. ~~Notwithstanding the provisions of any law to the contrary, the execution~~
5 ~~and effectiveness of any such contracts with respect to the sale or purchase of capacity,~~
6 ~~output, power or energy from a project, or of any contracts with respect to the purchase or~~
7 ~~disposition of power and energy and services and facilities related to the utilization of~~
8 ~~power and energy, or of any contracts with a municipality or joint municipal assistance~~
9 ~~agency to provide aid and assistance in the development and implementation of~~
10 ~~integrated resource planning, and the development, construction, and operation of supply-~~
11 ~~side and demand-side resources;~~

12 Notwithstanding the provisions of any law to the contrary, the execution and
13 effectiveness of any contracts authorized by this section shall not be subject to any
14 authorizations or approvals by the State or any agency, commission or instrumentality or
15 political subdivision thereof except as in this Chapter specifically required and provided.
16 provided, including the provisions of G.S. 159B-11(19e).

17 ~~Payments by a municipality under any contract for the purchase of capacity, output, or~~
18 ~~power or energy or services and facilities related to the utilization of power and energy,~~
19 ~~from a joint agency, and payments by any municipality directly to any joint agency (or~~
20 ~~indirectly to any joint agency through a joint municipal assistance agency) under any~~
21 ~~contract or contracts to provide aid and assistance in the development and~~
22 ~~implementation of integrated resource planning, and the development, construction, and~~
23 ~~operation of supply-side and demand-side resources, authorized by this section, except to~~
24 ~~implement the provisions of G.S. 159B-11(19c), shall be made solely from the revenues~~
25 ~~derived from the ownership and operation of the electric system of said municipality and~~
26 ~~any obligation under such contract shall not constitute a legal or equitable pledge, charge,~~
27 ~~lien, or encumbrance upon any property of the municipality or upon any of its income,~~
28 ~~receipts, or revenues, except the revenues of its electric system, and neither the faith and~~
29 ~~credit nor the taxing power of the municipality are, or may be, pledged for the payment of~~
30 ~~any obligation under any such contract. A municipality or joint agency, pursuant to an~~
31 ~~agreement with a municipality, shall be obligated to fix, charge and collect rents, rates,~~
32 ~~fees and charges for electric power and energy and other services, activities, facilities and~~
33 ~~commodities sold, furnished or supplied through its—the electric system of the~~
34 ~~municipality sufficient to provide revenues adequate to meet its obligations under any~~
35 ~~such contract and to pay any and all other amounts payable from or constituting a charge~~
36 ~~and lien upon such revenues, including amounts sufficient to pay the principal of and~~
37 ~~interest on general obligation bonds heretofore or hereafter issued by the municipality for~~
38 ~~purposes related to its electric system.~~

39 Payments by any joint municipal assistance agency to any joint agency under any
40 contract or contracts to provide aid and assistance in the development and
41 implementation of integrated resource planning, and the development, construction, and
42 operation of supply-side and demand-side resources, contracts, and payments by any
43 municipality to any joint agency or joint municipal assistance agency to implement the

1 provisions of G.S. 159B-11(19c), shall be made solely from the sources specified in such
2 contract or contracts and no other, and any obligation under such contract shall not
3 constitute a legal or equitable pledge, charge, lien, or encumbrance upon any property of
4 the joint municipal assistance agency or upon any of its income, receipts, or revenues,
5 except such sources so specified, or upon any property of any municipality with which
6 the joint agency or joint municipal assistance agency contracts or upon any of such
7 municipality's income, receipts, or revenues except the revenues of such municipality's
8 electric system. in each case except such sources so specified. A joint municipal
9 assistance agency shall be obligated to fix, charge and collect rents, rates, fees, and
10 charges for providing aid and assistance sufficient to provide revenues adequate to meet
11 its obligations under such contract.

12 Any municipality which is a member of a joint agency may furnish the joint agency
13 with money derived solely from the ownership and operation of its electric system or
14 facilities and provide the joint agency with personnel, equipment and property, both real
15 and personal. Any municipality may also provide any services to a joint agency.

16 Any member of a joint agency may contract for, advance or contribute funds derived
17 solely from the ownership and operation of its electric system or facilities to a joint
18 agency as may be agreed upon by the joint agency and the member, and the joint agency
19 shall repay such advances or contributions from proceeds of bonds, from operating
20 revenues or from any other funds of the joint agency, together with interest thereon as
21 may be agreed upon by the member and the joint agency."

22 Sec. 12. G.S. 159B-13 is repealed.

23 Sec. 13. G.S. 159B-14 reads as rewritten:

24 **"§ 159B-14. Bonds of a joint agency.**

25 A joint agency may issue bonds for the purpose of paying the cost of a project and
26 secure both the principal of and interest on the bonds by a pledge of part or all of the
27 revenues derived or to be derived from all or any of its projects, and any additions and
28 betterments thereto or extensions thereof, or from the sale of power and energy and
29 services and facilities related to the utilization of power and energy, or from other
30 activities or facilities, or from contributions or advances from its members. A joint
31 agency may issue bonds that are not for the purpose of paying the cost of a project and
32 secure the bonds solely by a pledge of revenues, solely by a security interest in real or
33 personal property, or by both a pledge of revenues and a security interest in real or
34 personal property. Bonds of a joint agency shall be authorized by a resolution adopted by
35 its governing board and spread upon its minutes."

36 Sec. 14. G.S. 159B-15 reads as rewritten:

37 **"§ 159B-15. Issuance of bonds.**

38 (a) Each municipality and joint agency is hereby authorized to issue at one time or
39 from time to time its bonds for the purpose of paying all or any part of the cost of any of
40 the purposes herein authorized. The principal of, premium, if any, and the interest on
41 bonds issued to pay the cost of a project shall be payable solely from revenues. Bonds
42 that are not issued to pay the cost of a project shall be payable from revenues, from
43 property pledged as security for the bonds, or from both.

1 The bonds of each issue shall bear interest at such rate or rates as may be determined
2 or provided for by the Local Government Commission of North Carolina with the
3 approval of the ~~issuer, provided that the issuer or the Local Government Commission may by~~
4 ~~contract provide for the establishment and revision by an agent from time to time of interest rates~~
5 ~~on bonds that bear interest at a variable rate.~~ issuer. The bonds of each issue shall be dated
6 and shall mature in such amounts and at such time or times, not exceeding 50 years from
7 their respective date or dates, as may be determined by the governing board of the issuer,
8 and may be made redeemable before maturity at such price or prices and under such
9 terms and conditions as may be fixed by the governing board of the issuer prior to the
10 issuance of the bonds. The governing board of the issuer shall determine the form and the
11 manner of execution of the bonds, including any interest coupons to be attached thereto,
12 and shall fix the denomination or denominations of the bonds and the place or places of
13 payment of principal and interest, which may be at any bank or trust company within or
14 without the State. In case any officer whose signature or a facsimile of whose signature
15 shall appear on any bonds or coupons shall cease to be such officer before the delivery of
16 such bond, such signature or such facsimile shall nevertheless be valid and sufficient for
17 all purposes the same as if he had remained in office until such delivery. The governing
18 board of the issuer may also provide for the authentication of the bonds by a trustee or
19 fiscal agent appointed by the issuer, or by an authenticating agent of any such trustee or
20 fiscal agent. The bonds may be issued in coupon or in fully registered form, or both, as
21 the governing board of the issuer may determine, and provisions may be made for the
22 registration of any coupon bonds as to principal alone and also as to both principal and
23 interest, and for the reconversion into coupon bonds of any bonds registered as to both
24 principal and interest, and for the interchange of registered and coupon bonds. At the
25 election of a joint agency, any bonds issued and sold in accordance with the provisions of
26 this Chapter may be purchased or otherwise acquired by the joint agency and held by it in
27 lieu of cancellation, and subsequently ~~resold in accordance with the provisions of this~~
28 Chapter. ~~resold.~~

29 (a1) Notwithstanding anything in this Chapter to the contrary, ~~in the case of short-~~
30 ~~term notes or other obligations (including commercial paper) maturing not later than one~~
31 ~~year from their date or dates,~~ the Local Government Commission of North Carolina and
32 the issuer (i) may authorize officers or employees of either or both thereof to fix principal
33 amounts, maturity dates, interest rates or methods of fixing interest rates, interest
34 payment dates, denominations, redemption rights of the issuer or holder, places of
35 payment of principal and interest, and purchase prices of any ~~such notes or other~~
36 ~~obligations,~~ bonds, to sell and deliver any ~~such notes~~ bonds in whole or in part at one
37 time or from time to time, and to fix other matters and procedures necessary to complete
38 the transactions authorized, all subject to such limitations as may be prescribed by the
39 Local Government Commission with the approval of the issuer, (ii) may approve
40 insurance contracts, agreements for lines of credit, letters of credit, commitments to
41 purchase ~~notes or other obligations~~ bonds and any other transactions to provide security
42 to assure, timely payment of ~~notes or other obligations,~~ bonds, (iii) may employ one or
43 more persons or firms to assist in the sale of the ~~notes or other obligations~~ bonds and

1 appoint one or more banks, trust companies or any dealer in ~~notes or other obligations,~~
2 bonds, within or without the State, as depository for safekeeping and as agent for the
3 delivery and payment of the ~~notes or other obligations,~~ bonds, and (iv) may provide for
4 the payment of fees and expenses in connection with the foregoing either from the
5 proceeds of the ~~notes or other obligations~~ bonds or from other available funds.

6 (b) The proceeds of the bonds of each issue shall be used solely for the purposes
7 for which such bonds have been issued, and shall be disbursed in such manner and under
8 such restrictions, if any, as the governing board of the issuer may provide in the
9 resolution authorizing the issuance of such bonds or in any trust agreement securing the
10 same. The municipality or joint agency may issue interim receipts or temporary bonds,
11 with or without coupons, exchangeable for definitive bonds when such bonds shall have
12 been executed and are available for delivery. The municipality or joint agency may also
13 provide for the replacement of any bonds which shall have become mutilated or shall
14 have been destroyed or lost.

15 (c) Bonds may be issued under the provisions of this Chapter without obtaining,
16 except as otherwise expressly provided in G.S. 159B-24 of this Chapter, the consent of
17 the State or of any political subdivision, or of any agency, commission or instrumentality
18 of either thereof, and without any other approvals, proceedings or the happening of any
19 conditions or things other than those approvals, proceedings, conditions or things which
20 are specifically required by this Chapter and the provisions of the resolution authorizing
21 the issuance of such bonds or the trust agreement securing the same."

22 Sec. 15. G.S. 159B-16 reads as rewritten:

23 "**§ 159B-16. Resolution or trust agreement.**

24 In the discretion of the governing board of the issuer, any bonds issued under the
25 provisions of this Chapter may be secured by a trust agreement by and between the issuer
26 and a corporate trustee, which may be any trust company or bank having the powers of a
27 trust company within or without the State. Such trust agreement or the resolution
28 providing for the issuance of such bonds may contain such provisions for protecting and
29 enforcing the rights and remedies of the bondholders and of the trustee as may be
30 reasonable and proper and not in violation of law, and may restrict the individual right of
31 action by bondholders. The trust agreement or the resolution providing for the issuance of
32 such bonds may contain covenants including, but not limited to, the following:

- 33 (1) The pledge of all or any part of the revenues derived or to be derived
34 from the project or projects to be financed by the bonds, or from the sale
35 or other disposition of power and energy and services and facilities
36 related to the utilization of power and energy, or from other services or
37 activities, or from contributions and advances from members of a joint
38 agency, or from the electric system or other facilities of a municipality
39 or a joint agency.
- 40 (2) The rents, rates, fees and charges to be established, maintained, and
41 collected, and the use and disposal of revenues, gifts, grants and funds
42 received or to be received by the municipality or joint agency.

- 1 (3) The setting aside of reserves and the investment, regulation and
2 disposition thereof.
- 3 (4) The custody, collection, securing, investment, and payment of any
4 moneys held for the payment of bonds.
- 5 (5) Limitations or restrictions on the purposes to which the proceeds of sale
6 of bonds then or thereafter to be issued may be applied.
- 7 (6) Limitations or restrictions on the issuance of additional bonds; the terms
8 upon which additional bonds may be issued and secured; or the
9 refunding of outstanding or other bonds.
- 10 (7) The procedure, if any, by which the terms of any contract with
11 bondholders may be amended, the percentage of bonds the bondholders
12 of which must consent thereto, and the manner in which such consent
13 may be given.
- 14 (8) Events of default and the rights and liabilities arising thereupon, the
15 terms and conditions upon which bonds issued under this Chapter shall
16 become or may be declared due before maturity, and the terms and
17 conditions upon which such declaration and its consequences may be
18 waived.
- 19 (9) The preparation and maintenance of a budget.
- 20 (10) The retention or employment of consulting engineers, independent
21 auditors, and other technical consultants.
- 22 (11) Limitations on or the prohibition of free service to any person, firm or
23 corporation, public or private.
- 24 (12) The acquisition and disposal of property, provided that no project or
25 part thereof shall be mortgaged by such trust agreement or resolution.
- 26 (13) Provisions for insurance and for accounting reports and the inspection
27 and audit thereof.
- 28 (14) The continuing operation and maintenance of the ~~project.~~ project or
29 other facilities.
- 30 (15) For bonds that are not issued to pay the cost of a project, the pledge,
31 assignment, mortgage, or grant of a security interest in any real or
32 personal property or interest in real or personal property, including the
33 pledge, assignment, or grant of a security interest in money, rents,
34 charges, or other revenues or proceeds derived by the joint agency from
35 the sale of property, from insurance, or from a condemnation award. In
36 the event of default on a bond secured by a pledge, assignment,
37 mortgage, or grant of a security interest, the rights of the bond holders
38 and the liabilities arising from the default shall be limited, except to the
39 extent provided in a pledge of revenues, to the specific property or
40 interest in property pledged, assigned, or mortgaged or in which a
41 security interest was granted to secure the bonds, and no claim for any
42 deficiency shall be made nor any deficiency judgment entered as a result

1 of the pledge, assignment, mortgage, or grant of a security interest in the
2 property or the interest in property."

3 Sec. 16. G.S. 159B-17 reads as rewritten:

4 **"§ 159B-17. Revenues.**

5 (a) A municipality is hereby authorized to fix, charge and collect rents, rates, fees
6 and charges for electric power and energy and other services, facilities and commodities
7 sold, furnished or supplied through the facilities of its electric system or its interest in any
8 joint project. For so long as any bonds of a municipality are outstanding and unpaid, the
9 rents, rates, fees and charges shall be so fixed as to provide revenues sufficient to pay all
10 costs of and charges and expenses in connection with the proper operation and
11 maintenance of its electric system, and its interest in any joint project, and all necessary
12 repairs, replacements or renewals thereof, to pay when due the principal of, premium, if
13 any, and interest on all bonds and other evidences of indebtedness payable from said
14 revenues, to create and maintain reserves as may be required by any resolution or trust
15 agreement authorizing and securing bonds, to pay when due the principal of, premium, if
16 any, and interest on all general obligation bonds heretofore or hereafter issued to finance
17 additions, improvements and betterments to its electric system, and to pay any and all
18 amounts which the municipality may be obligated to pay from said revenues by law or
19 contract.

20 (b) A joint agency is hereby authorized to fix, charge, and collect rents, rates, fees
21 and charges for electric power and energy and other services, facilities and commodities
22 sold, furnished or supplied through the facilities of its projects or otherwise as authorized
23 by this Chapter. For so long as any bonds of a joint agency are outstanding and unpaid,
24 the rents, rates, fees and charges shall be so fixed as to provide revenues sufficient to pay
25 all costs of and charges and expenses in connection with the proper operation and
26 maintenance of its projects, and all necessary repairs, replacements or renewals thereof,
27 to pay when due the principal of, premium, if any, and interest on all bonds and other
28 evidences of indebtedness payable from said revenues, to create and maintain reserves as
29 may be required by any resolution or trust agreement authorizing and securing bonds, and
30 to pay any and all amounts which the joint agency may be obligated to pay from said
31 revenues by law or contract.

32 (c) Any pledge of revenues, securities or other moneys made by a municipality,
33 joint agency or joint municipal assistance agency pursuant to this Chapter shall be valid
34 and binding from the date the pledge is made. The revenues, securities, and other moneys
35 so pledged and then held or thereafter received by the municipality, joint agency or joint
36 municipal assistance agency or any fiduciary shall immediately be subject to the lien of
37 the pledge without any physical delivery thereof or further act, and the lien of the pledge
38 shall be valid and binding as against all parties having claims of any kind in tort, contract,
39 or otherwise against the municipality, joint agency or joint municipal assistance agency
40 without regard to whether such parties have notice thereof. The resolution or trust
41 agreement or any financing statement, continuation statement or other instrument by
42 which a pledge of revenues, securities or other moneys is created need not be filed or
43 recorded in any manner."

1 Sec. 17. G.S. 159B-18 reads as rewritten:

2 **"§ 159B-18. Trust funds; investment authority.**

3 (a) Notwithstanding any other provisions of law to the contrary, all moneys
4 received pursuant to the authority of this Chapter, whether as proceeds from the sale of
5 bonds or as revenues, shall be deemed to be trust funds to be held and applied solely as
6 provided in this Chapter. The resolution authorizing the bonds of any issue or the trust
7 agreement securing such bonds may provide that any of such moneys may be temporarily
8 invested and reinvested pending the disbursements thereof in such securities and other
9 investments as shall be provided in such resolution or trust agreement, and shall provide
10 that any officer with whom, or any bank or trust company with which, such moneys shall
11 be deposited shall ~~act as trustee of such moneys and shall hold~~ and apply the same for the
12 purposes hereof, subject to such regulation as this Chapter and such resolution or trust
13 agreement may provide.

14 (b) Any moneys received pursuant to the authority of this Chapter and any other
15 moneys available to a joint agency for investment may be invested:

16 (1) As provided in subsection (a) of this section;

17 (2) As provided in G.S. 159-30, except that:

18 a. A joint agency may also invest, in addition to the obligations
19 enumerated in G.S. 159-30(c)(2), in bonds, debentures, notes,
20 participation certificates, or other evidences of indebtedness
21 issued, or the principal of and the interest on which are
22 unconditionally guaranteed, whether directly or indirectly, by any
23 agency or instrumentality of, or corporation wholly owned by,
24 the United States of America.

25 b. For purposes of G.S. 159-30(c)(12), a joint agency may also
26 enter into repurchase agreements with respect to, in addition to
27 the obligations enumerated in G.S. 159-30(c)(12):

28 1. Obligations of the Federal Financing Bank, the Federal
29 Farm Credit Bank, the Bank for Cooperatives, the Federal
30 Intermediate Credit Bank, the Federal Land Banks, the
31 Federal Home Loan Banks, the Federal Home Loan
32 Mortgage Corporation, the Federal National Mortgage
33 Association, the Government National Mortgage
34 Association, the Federal Housing Administration, the
35 Farmers Home Administration, and the United States
36 Postal Service;

37 2. Bonds, debentures, notes, participation certificates, or
38 other evidences of indebtedness issued, or the principal of
39 and the interest on which are unconditionally guaranteed,
40 whether directly or indirectly, by any agency or
41 instrumentality of, or corporation wholly owned by, the
42 United States of America;

- 1 3. Mortgage-backed pass-through securities guaranteed by
2 the Government National Mortgage Association, the
3 Federal Home Loan Mortgage Corporation, or the Federal
4 National Mortgage Association;
- 5 4. Direct or indirect obligations which are collateralized by
6 or represent beneficial ownership interests in mortgage-
7 backed pass-through securities guaranteed by the
8 Government National Mortgage Association, the Federal
9 Home Loan Mortgage Corporation, or the Federal
10 National Mortgage Association; and
- 11 5. Direct or indirect obligations, trust certificates, or other
12 similar instruments which are both: (i) guaranteed by the
13 Government National Mortgage Association, the Federal
14 Home Loan Mortgage Corporation, or the Federal
15 National Mortgage Association; (ii) collateralized by or
16 represent beneficial ownership interests in mortgage-
17 backed pass-through securities which are guaranteed by
18 the Government National Mortgage Association, the
19 Federal Home Loan Mortgage Corporation, or the Federal
20 National Mortgage Association, including, but not limited
21 to, Real Estate Mortgage Investment Conduit Certificates;
22 and (iii) for purposes of the second proviso of G.S. 159-
23 30(c)(12)a., the financial institution serving either as
24 trustee or as fiscal agent for a joint agency holding the
25 obligations subject to the repurchase agreement may also
26 be the provider of the repurchase agreement if the
27 obligations that are subject to the repurchase agreement
28 are held in trust by the trustee or fiscal agent for the
29 benefit of the joint agency;
- 30 (3) In mortgage-backed pass-through securities guaranteed by the
31 Government National Mortgage Association, the Federal Home Loan
32 Mortgage Corporation, or the Federal National Mortgage Association;
- 33 (4) In direct or indirect obligations which are collateralized by or represent
34 beneficial ownership interests in mortgage-backed pass-through
35 securities guaranteed by the Government National Mortgage
36 Association, the Federal Home Loan Mortgage Corporation, or the
37 Federal National Mortgage Association; and
- 38 (5) In direct or indirect obligations, trust certificates, or other similar
39 instruments which are (i) guaranteed by the Government National
40 Mortgage Association, the Federal Home Loan Mortgage Corporation,
41 or the Federal National Mortgage Association, and (ii) collateralized by
42 or represent beneficial ownership interests in mortgage-backed pass-
43 through securities which are guaranteed by the Government National

1 Mortgage Association, the Federal Home Loan Mortgage Corporation,
2 or the Federal National Mortgage Association, including, but not limited
3 to, Real Estate Mortgage Investment Conduit Certificates."

4 Sec. 18. G.S. 159B-24 reads as rewritten:

5 **"§ 159B-24. Approval and sale of bonds.**

6 Prior to the acquisition or the commencement of construction of any project
7 consisting of a system or facilities for the generation of power and energy which is to be
8 financed by the issuance of bonds under the provisions of this Chapter, the participating
9 municipalities or joint agency, as the case may be, shall first obtain a certificate of public
10 convenience and necessity and, in the same proceeding, the approval required by G.S.
11 159B-4 hereof, in the case of the participating municipalities, or the approval required by
12 G.S. 159B-11 hereof, in the case of a joint agency, from the North Carolina Utilities
13 Commission under such rules, regulations and procedures as the Commission may
14 prescribe.

15 No municipality or joint agency shall issue any bonds pursuant to this Chapter unless
16 and until, and only to the extent that, the issuance of such bonds is approved by the Local
17 Government Commission. A participating municipality or joint agency shall file with the
18 secretary of the Local Government Commission an application for Commission approval
19 of the issuance of the bonds upon such form as the said Commission may prescribe,
20 which form shall provide for the submission of such information as the secretary may
21 require concerning the proposed bond issue, the details thereof and the security therefor.
22 Before he accepts the application, the secretary may require the governing board or its
23 representatives to attend a preliminary conference at which time the secretary and his
24 deputies may informally discuss the details of the proposed issue and the security
25 therefor.

26 After an application in proper form has been filed, and after a preliminary conference
27 if one is required, the secretary shall notify the municipality or joint agency in writing
28 that the application has been filed and accepted for submission to the Commission. The
29 secretary's statement shall be conclusive evidence that the municipality or joint agency,
30 as the case may be, has complied with the requirements of this section with respect to the
31 filing of an application for approval by the said Local Government Commission.

32 In determining whether a proposed bond issue shall be approved, the Commission
33 may consider:

- 34 (1) The municipality's or joint agency's debt management procedures and
35 policies.
- 36 (2) Whether the municipality or joint agency is in default with respect to
37 any of its debt service obligations.
- 38 (3) Whether, based upon feasibility reports submitted to it, the probable
39 revenues of the project to be financed or the revenues of the
40 municipality's electric system, as the case may be, will be sufficient to
41 service the proposed bonds.

42 The Commission may inquire into and give consideration to any other matters that it
43 may believe to have a bearing on whether the issue should be approved except matters

1 which are expressly required by the provisions of this Chapter to be determined by the
2 North Carolina Utilities Commission.

3 The Commission shall approve the application if, upon the information and evidence
4 it receives, it finds and determines:

- 5 (1) That, based upon engineering studies and feasibility reports submitted to
6 it, the principal amount of the proposed bonds will be adequate and not
7 excessive for the proposed purpose of the issue.
- 8 (2) That the municipality's or joint agency's debt management procedures
9 and policies are good, or that reasonable assurances have been given
10 that its debt will henceforth be managed in strict compliance with law.
- 11 (3) That the requirements of this Chapter with respect to the issuance of the
12 bonds and the details thereof and security therefor have been, or will be,
13 satisfied.
- 14 (4) That the issuance of the proposed bonds will effectuate the purposes and
15 policies of this Chapter.

16 After considering an application, the Local Government Commission shall enter its
17 order either approving or denying the application. An order approving an issue shall not
18 be regarded as an approval of the legality of the bonds in any respect.

19 If the Commission enters an order denying the application, the proceedings under this
20 section shall be at an end.

21 At any time after the Commission approves an application for the issuance of bonds,
22 the governing board of the issuer may adopt a bond resolution or enter into a trust
23 agreement in accordance with the provisions of this Chapter, and may thereafter at one
24 time, or from time to time, issue the bonds as provided herein.

25 Upon the filing with the Local Government Commission of a resolution of the issuer
26 requesting that its bonds be sold, such bonds may be sold in such manner, either at public
27 or private sale, and for such price as the Local Government Commission shall determine
28 to be for the best interest of the issuer and effectuate best the purposes of this Chapter,
29 provided that such sale shall be approved by the issuer.

30 Except as herein expressly provided, bonds may be issued and sold under the
31 provisions of this Chapter without obtaining the approval or consent of any other
32 department, division, commission, board, bureau or agency of the State, and without any
33 other proceeding or the happening of any other condition or thing than those proceedings,
34 conditions or things which are specifically required by this Chapter."

35 Sec. 19. G.S 159B-25 reads as rewritten:

36 **"§ 159B-25. Refunding bonds.**

37 (a) A municipality or joint agency is hereby authorized to provide by resolution
38 for the issuance of refunding bonds of the municipality or joint agency for the purpose of
39 refunding any bonds then outstanding which shall have been issued under the provisions
40 of this Chapter, including the payment of any redemption premium thereon and any
41 interest accrued or to accrue to the date of redemption of such bonds.

42 (b) In addition to any refunding bonds that may be issued pursuant to subsection
43 (a), a municipality or joint agency is hereby authorized to provide by resolution for the

1 issuance of refunding bonds for the purpose of providing for the payment of any interest
2 accrued or to accrue on any bonds which shall have been issued by the joint agency under
3 the provisions of ~~the this~~ Chapter; provided, however, ~~that the refunding bonds are issued on~~
4 ~~or prior to June 30, 1992, and the latest maturity of the refunding bonds issued for a project is no~~
5 ~~later than the latest maturity of any other bonds issued by the municipality or joint agency, as the~~
6 ~~case may be, then outstanding for the same project; and provided further that the Local~~
7 Government Commission shall conduct an evidentiary hearing and upon the evidence
8 presented find and determine that:

- 9 (1) The municipality's or the joint agency's debt will be managed in strict
10 compliance with law;
- 11 (2) The requirements of this Chapter with respect to the issuance of its ~~bond~~
12 bonds and the details thereof and security therefor have been and will be
13 satisfied;
- 14 (3) The estimated revenues of the project or the revenues of the
15 municipality's electric system, as the case may be, will be sufficient to
16 service all bonds to be outstanding after the issuance of the refunding
17 bonds;
- 18 (4) The application of the proceeds of the refunding bonds will result in the
19 deferral of recovery in rates of a portion of the capital costs of the
20 project for a reasonable period of time;
- 21 (5) All capital costs of the project will be recovered over a period ending,
22 and all bonds issued for the project will mature, no later than the end of
23 the then estimated useful economic life of the project;
- 24 (6) The issuance of the bonds is in the best interest of the municipality's or
25 joint agency's electricity customers; and
- 26 (7) The bond rating of the State and its several political subdivisions and
27 agencies allowed to issue bonds should not be adversely affected.

28 (c) The issuance of such bonds, the maturities and other details thereof, the rights
29 of the holders thereof, and the rights, duties and obligations of the municipality or joint
30 agency in respect to the same shall be governed by the provisions of this Chapter which
31 relate to the issuance of bonds, insofar as such provisions may be appropriate ~~thereof.~~
32 thereto."

33 Sec. 20. G.S. 159B-27 reads as rewritten:

34 "**§ 159B-27. Taxes; payments in lieu of taxes.**

35 (a) A project jointly owned by municipalities or owned by a joint agency shall be
36 exempt from property taxes; provided, however, that each municipality possessing an
37 ownership share of a project, and a joint agency owning a project, shall, in lieu of
38 property taxes, pay to any governmental body authorized to levy property taxes the
39 amount which would be assessed as taxes on real and personal property of a project if
40 such project were otherwise subject to valuation and assessment by the Department of
41 Revenue. Such payments in lieu of taxes shall be due and shall bear interest if unpaid, as
42 in the cases of taxes on other property. Payments in lieu of taxes made hereunder shall be
43 treated in the same manner as taxes for purposes of all procedural and substantive

1 provisions of law. Any administrative building and associated land shall be deemed a
2 project for purposes of this paragraph.

3 (b) Each municipality having an ownership share in a generation or transmission
4 project shall pay to the State in lieu of an annual franchise or privilege tax an amount
5 equal to three and twenty-two hundredths percent (3.22%) of that percentage of all
6 moneys expended by said municipality on account of its ownership share, including
7 payment of principal and interest on bonds issued to finance such ownership share, which
8 is equal to the percentage of such city or town's total entitlement that is used or sold by it
9 to any person, firm or corporation exempted by law from the payment of the tax on gross
10 receipts pursuant to G.S. 105-116.

11 (c) In lieu of an annual franchise or privilege tax, each joint agency shall pay to
12 the State an amount equal to three and twenty-two hundredths percent (3.22%) of the
13 gross receipts from sales of electric power or energy, less receipts from sales of electric
14 power or energy to a vendee subject to tax under G.S. 105-116.

15 (d) The State shall distribute to cities and towns which receive electric power and
16 energy from their ownership share of a project or to which electric power and energy is
17 sold by a joint agency an amount equal to a tax of three and nine hundredths percent
18 (3.09%) of all moneys expended by a municipality on account of its ownership share of a
19 project, including payment of principal and interest on bonds issued to finance such
20 ownership share, or an amount equal to a tax of three and nine hundredths percent
21 (3.09%) of the gross receipts from all sales of electric power and energy to such city or
22 town by a joint agency, as the case may be.

23 (e) The reporting, payment and collection procedures contained in G.S. 105-116
24 shall apply to the levy herein made.

25 (f) Except as herein expressly provided with respect to jointly owned projects or
26 projects owned by a joint ~~agency~~ agency, no other property of a municipality used or
27 useful in the generation, ~~transmission and distribution~~ transmission, distribution, control,
28 conservation, management, and utilization of electric power and energy shall be subject
29 to payments in lieu of taxes."

30 Sec. 21. G.S. 159B-29 reads as rewritten:

31 **"§ 159B-29. Dissolution of joint agencies.**

32 Whenever the governing ~~board of commissioners~~ of a joint agency and the governing
33 boards of its member municipalities shall by resolution or ordinance determine that the
34 purposes for which the joint agency was formed have been substantially fulfilled and that
35 all bonds theretofore issued and all other obligations theretofore incurred by the joint
36 agency have been fully paid or satisfied, ~~such board of commissioners and the governing~~
37 ~~boards~~ board of the joint agency may by resolution declare the joint agency to be
38 dissolved. On the effective date of such resolution ~~or ordinance~~, declaring the joint agency
39 to be dissolved, the title to all funds and other property owned by the joint agency at the
40 time of such dissolution shall vest in the member municipalities of the joint agency as
41 provided in this Chapter and the bylaws of the joint agency. Notice of such dissolution
42 shall be filed with the Secretary of State."

43 Sec. 22. G.S. 159B-30.1 reads as rewritten:

1 **"§ 159B-30.1. Additional reports.**

2 Beginning January 1, 1994, and annually thereafter, each joint agency operating under
3 the authority of Chapter 159B of the General Statutes shall file a report with the Joint
4 Legislative Utility Review Committee describing the activities of the joint agency carried
5 out pursuant to the authority granted by G.S. 159B-2, ~~159B-11(19b)~~, 159B-11(19b)a.,
6 159B-11(19b)b.1., 159B-12 and 159B-17(c). The report shall cover the preceding
7 calendar year. Each joint agency shall file such additional reports as the Joint Legislative
8 Utility Review Committee shall request."

9 Sec. 23. G.S. 159B-34 reads as rewritten:

10 **"§ 159B-34. Liability and defense.**

11 (a) No commissioner or officer of any joint agency or ~~municipality~~ municipality, or
12 member of an executive committee created pursuant to G.S. 159B-10, or person or
13 persons acting in their ~~behalf~~ behalf, while acting within the scope of their authority, shall
14 be subject to any personal liability or accountability by reason of his carrying out any of
15 the powers expressly or impliedly given in this Chapter.

16 (b) The governing board of commissioners of a joint agency may provide for the
17 defense of a criminal or civil proceeding brought against any current or former
18 commissioner, member of an executive committee, officer, agent or employee either in
19 his official or individual capacity, or both, on account of any act done or omission made
20 in the scope and course of his employment or duty as a commissioner, member of an
21 executive committee, officer, agent, or employee of the joint agency. The defense may be
22 provided by the agency by its own counsel, by employing other counsel or by purchasing
23 insurance which requires that the insurer provide the defense.

24 (c) The governing board of commissioners may appropriate funds for the purpose of
25 paying all or part of a claim made or any civil judgment entered against any of its current
26 or former commissioners, members of executive committees, officers, agents or
27 employees, when such claim is made or such judgment is rendered as damages on
28 account of any act done or omission made ~~or~~ in the scope and course of his current or
29 former employment or duty as a commissioner, member of an executive committee,
30 officer, agent or employee; provided, however, that nothing in this section shall authorize
31 any joint agency to appropriate funds for the purpose of paying any claim made or civil
32 judgment entered against any current or former commissioners, members of executive
33 committees, officers, agents or employees if the board of commissioners finds that
34 commissioner, member of an executive committee, officer, agent or employee acted or
35 failed to act because of actual fraud, corruption or actual malice on his part. Any joint
36 agency may purchase insurance coverage for payment of claims or judgments pursuant to
37 this section."

38 Sec. 24. G.S. 159B-38 reads as rewritten:

39 **"§ 159B-38. Confidentiality of contract discussions.**

40 Discussions of a proposed or existing contract to which a joint agency may be or is a
41 party for the construction, ownership, or operation of works, plants, and facilities for or
42 incident to the generation, transmission, ~~or use~~ distribution, control, conservation,
43 management, or utilization of electric power and energy or the purchase, sale, exchange,

1 interchange, wheeling, pooling, transmission, or use of electric power and energy shall be
2 confidential and information relating to such discussions shall not be a public record
3 under Chapter 132 of the General Statutes; provided that any contract entered into by or
4 on behalf of a joint agency as defined by G.S. 159B-3 shall be a public record unless
5 otherwise exempted by law."

6 Sec. 25. G.S. 159B-42 reads as rewritten:

7 **"§ 159B-42. Joint municipal assistance agencies.**

8 The purpose of this Article is to authorize joint agencies or municipalities to form
9 one or more joint municipal assistance agencies which shall be empowered to provide aid
10 and assistance to municipalities in the construction, ownership, maintenance, expansion
11 and operation of their electric systems, to do such other acts and things as hereinafter
12 provided and to carry out the powers and responsibilities hereinafter granted in this
13 Chapter. It shall also be the purpose of a joint municipal assistance agency to provide aid
14 and assistance to any joint agency in the exercise of its respective powers and functions.
15 The term 'provide aid and assistance' shall be liberally construed."

16 Sec. 26. G.S. 159B-43 reads as rewritten:

17 **"§ 159B-43. Joint municipal assistance agencies authorized.**

18 (a) Any two or more ~~municipalities~~ joint agencies, or any two or more
19 municipalities, may organize a joint municipal assistance agency, which shall be a public
20 body and body corporate and politic. Any joint agency or municipality is hereby
21 authorized to become a member of any such joint municipal assistance agency upon a
22 determination, by resolution or ordinance of its governing board, that economies,
23 efficiencies and other benefits might be achieved from participation in such an agency.

24 The resolution or ordinance determining it desirable for a joint agency or municipality
25 to become a member of a joint municipal assistance agency (which need not prescribe in
26 detail the basis for the determination) shall set forth the names of the joint agencies or
27 municipalities which are proposed to be initial members of the joint municipal assistance
28 agency. The governing board of the joint agency or municipality shall thereupon by
29 ordinance or resolution appoint one commissioner and up to two alternate commissioners
30 of the joint municipal assistance agency who may, at the discretion of the governing
31 board, be an officer or employee of the joint agency or municipality. If two alternate
32 commissioners are appointed, the governing board shall designate them as first or second
33 alternate commissioner.

34 Any two or more commissioners so named may file with the Secretary of State an
35 application signed by them setting forth (i) the names of all the proposed member
36 joint agencies or municipalities; (ii) the name and official residence of each of the
37 commissioners so far as known to them; (iii) a certified copy of the appointment
38 evidencing their right to office; (iv) a statement that each governing board of each
39 respective joint agency or municipality appointing a commissioner has made the
40 aforesaid determination; (v) the desire that a joint municipal assistance agency be
41 organized as a public body and a body corporate and politic under this Chapter; and (vi)
42 the name which is proposed for the joint municipal assistance agency.

1 The application shall be subscribed and sworn to by such commissioners before an
2 officer or officers authorized by the laws of the State to administer and certify oaths.

3 The Secretary of State shall examine the application and, if he finds that the name
4 proposed for the joint municipal assistance agency is not identical with that of any other
5 corporation of this State or of any agency or instrumentality thereof, or so nearly similar
6 as to lead to confusion and uncertainty, he shall receive and file it and shall record it in an
7 appropriate book of record in his office.

8 When the application has been made, filed and recorded as herein provided, the joint
9 municipal assistance agency shall constitute a public body and a body corporate and
10 politic under the name proposed in the application. The Secretary of State shall make and
11 issue to the commissioners executing the application a certificate of incorporation
12 pursuant to this Chapter under the seal of the State, and shall record the same with the
13 application. The certificate shall set forth the names of the member municipalities.

14 In any suit, action or proceeding involving the validity or enforcement of, or relating
15 to, any contract of the joint municipal assistance agency, the joint municipal assistance
16 agency, in the absence of establishing fraud in the premises, shall be conclusively
17 deemed to have been established in accordance with the provisions of this Chapter upon
18 proof of the issuance of the aforesaid certificate by the Secretary of State. A copy of such
19 certificate or of any new or supplemental certificate hereinafter provided for, duly
20 certified by the Secretary of State, shall be admissible in evidence in any suit, action or
21 proceeding, and shall be conclusive proof of the filing and contents thereof.

22 Notice of the issuance of such certificate shall be given to all of the proposed member
23 joint agencies or municipalities by the Secretary of State. If a commissioner of any such
24 joint agency or municipality has not signed the application to the Secretary of State and
25 such joint agency or municipality does not notify the Secretary of State of the
26 appointment of a commissioner within 60 days after receipt of such notice, such joint
27 agency or municipality shall be deemed to have elected not to be a member of the joint
28 municipal assistance agency. As soon as practicable after the expiration of such 60-day
29 period, the Secretary of State shall issue a new certificate of incorporation, if necessary,
30 setting forth the names of those joint agencies or municipalities which have elected to
31 become members of the joint municipal assistance agency. The failure of any proposed
32 member to become a member shall not affect the validity of the corporate existence of the
33 joint municipal assistance agency.

34 (b) After the creation of a joint municipal assistance agency, any other joint
35 agency (if organized by joint agencies) or municipality (if organized by municipalities)
36 may become a member thereof upon application to such joint municipal assistance
37 agency after the adoption of a resolution or ordinance by the governing board of the joint
38 agency or municipality setting forth the determination and finding prescribed above for
39 the original members and authorizing said municipality to become a member and
40 appointing ~~a~~one commissioner, and with the consent of a majority of the board of
41 commissioners of the joint municipal assistance agency. Any joint agency or municipality
42 may withdraw from a joint municipal assistance agency, provided, however, that all
43 obligations incurred by a joint agency or municipality while it was a member shall remain

1 in full force and effect. Notice that a joint agency or municipality has been added to or
2 withdrawn from membership in the joint municipal assistance agency shall be filed with
3 the Secretary of State, and the Secretary of State shall thereupon issue a new or
4 supplemental certificate of incorporation setting forth the names of all members of the
5 joint municipal assistance agency. Additions of new members or withdrawal of members
6 shall not affect the validity of the corporate existence of the joint municipal assistance
7 agency.

8 (c) The joint municipal assistance agency ~~shall~~may be governed by a board of
9 commissioners appointed as provided in ~~subsection (a) above by the respective governing~~
10 ~~boards of the municipalities which are members of the joint municipal assistance agency.~~
11 subsections (a) and (b) of this section. It shall not be necessary to notify the Secretary of
12 State of the appointment of any commissioners following the notifications referred to in
13 subsections (a) and (b) ~~above.~~of this section. Each commissioner shall have one vote
14 and shall serve at the pleasure of the governing board by which he was appointed. Each
15 appointed commissioner before entering upon his duties shall take and subscribe to an
16 oath before some person authorized by law to administer oaths to execute the duties of
17 his office faithfully and impartially, and a record of each such oath shall be filed with the
18 governing board of the appointing joint agency or municipality and spread upon its
19 minutes. The governing board of each of the joint agencies or municipalities may appoint
20 up to two alternate commissioners to act in lieu of its appointed commissioner when the
21 appointed commissioner is unable for any reason to attend meetings of the board of
22 commissioners or any committee thereof, and the governing board shall designate them
23 as first or second alternate commissioner. Each alternate commissioner shall serve at the
24 pleasure of the governing board by which he is appointed and shall take, subscribe to and
25 file an oath in the same manner as prescribed for regularly appointed commissioners.
26 Such alternate commissioner when acting in lieu of the regularly appointed commissioner
27 shall be deemed to be the commissioner representing such joint agency or municipality,
28 and shall have the rights, powers and authority of the regularly appointed commissioner,
29 other than such commissioner's position as an officer, director or member of the
30 executive committee. A certificate entered into the minutes of the board of
31 commissioners of a joint agency by the clerk or other custodian of the minutes and
32 records of the governing body of a municipality, appointing commissioners and alternate
33 commissioners and reciting their appointments, shall constitute conclusive evidence of
34 their appointment. All powers, functions, rights and privileges of the joint municipal
35 assistance agency shall be exercised or delegated by the board of commissioners.

36 (d) The board of commissioners of the joint municipal assistance agency shall
37 annually elect one of the commissioners as president, another as vice president, and
38 another person or persons, who may but need not be commissioners, as treasurer,
39 secretary, and, if desired, assistant secretary or secretaries and assistant treasurer. The
40 office of treasurer or assistant treasurer may be held by the secretary or any assistant
41 secretary. The board of commissioners may also appoint and prescribe the duties of such
42 additional officers as it deems necessary. The secretary or any assistant secretary of the
43 joint municipal assistance agency shall keep a record of the proceedings of the joint

1 municipal assistance agency, and the secretary shall be the custodian of all records,
2 books, documents and papers filed with the joint municipal assistance agency, the minute
3 book or journal of the joint municipal assistance agency and its official seal. Either the
4 secretary or any assistant secretary of the joint municipal assistance agency may cause
5 copies to be made of all minutes and other records and documents of the joint municipal
6 assistance agency and may give certificates under the official seal of the joint municipal
7 assistance agency to the effect that such copies are true copies, and all persons dealing
8 with the joint municipal assistance agency may rely upon such certificates.

9 (e) Fifty-one percent (51%) of the commissioners of a joint municipal assistance
10 agency then in office shall constitute a quorum, and the commissioners may by written
11 consent executed before or after any meeting waive notice and all other formalities
12 incident to the calling or conduct of the same. Meetings of the commissioners may be
13 held at any place within the State or any state contiguous to the State. A vacancy in the
14 board of commissioners of the joint municipal assistance agency shall not impair the right
15 of a quorum to exercise all the rights and perform all the duties of the joint municipal
16 assistance agency. Any action taken by the joint municipal assistance agency under the
17 provisions of this Chapter may be authorized by resolution at any regular or special
18 meeting, and each such resolution ~~shall~~ may take effect immediately and need not be
19 published or posted. Except as specifically provided by the bylaws, a majority of the
20 votes of the commissioners present shall be necessary and sufficient to take any action or
21 to pass any resolution.

22 (f) The board of commissioners of the joint municipal assistance agency may, in
23 its bylaws, provide for a board of directors of the joint municipal assistance agency to be
24 selected from the commissioners and alternate commissioners. The board of directors
25 shall have and exercise such of the powers and authority of the board of commissioners
26 during the intervals between the board of commissioners' meetings as shall be prescribed
27 in the bylaws, rules, motions and resolutions of the board of commissioners. The terms of
28 office of the members of the board of directors and the method of filling vacancies
29 therein shall be fixed by the bylaws of the board of commissioners of the joint municipal
30 assistance agency. The bylaws of the joint municipal assistance agency shall provide that
31 the officers of the board of commissioners elected pursuant to subsection (d) of this
32 section must also serve on the board of directors and hold the same offices thereon.

33 (g) The board of commissioners may also provide, in its bylaws or otherwise, that
34 the board of directors shall create an executive committee of the board of directors
35 composed of the officers of the board of directors, together with such other members of
36 the board of directors as may be prescribed and that such executive committee shall have
37 and shall exercise such of the powers and authority of the board of directors during the
38 intervals between that board's meetings as shall be prescribed in the bylaws of the joint
39 municipal assistance agency or in the rules or resolutions of the board of directors.

40 (h) The board of commissioners, board of directors and executive committee may
41 provide or adopt methods and procedures consistent with other applicable laws for the
42 calling or conducting of meetings or the taking of any action.

1 (i) No commissioner or director of a joint municipal assistance agency shall
2 receive any compensation for the performance of his or her duties hereunder, provided,
3 however, that each commissioner and director may be paid his or her necessary expenses
4 incurred while engaged in the performance of such duties."

5 Sec. 27. Chapter 159B of the General Statutes is amended by adding a new
6 subsection to read:

7 "**§ 159B-43.1. Alternative to board of commissioners.**

8 (a) In lieu of the provisions of G.S. 159B-43(c) through (i), a joint municipal
9 assistance agency organized by two or more joint agencies, by resolutions adopted by
10 each of those joint agencies, may be governed by an executive committee created
11 pursuant to the provisions of G.S. 159B-10. In that case, the commissioners of the joint
12 municipal assistance agency appointed pursuant to the provisions of G.S. 159B-43(a) and
13 (b) shall adopt a resolution substantially identical to the resolutions adopted by the joint
14 agencies creating the executive committee. The terms of office, methods of filling
15 vacancies, and such other matters involving the executive committee shall be as set forth
16 in those resolutions.

17 (b) In connection with a joint municipal assistance agency governed pursuant to
18 the provisions of subsection (a) of this section, member municipalities of that joint
19 municipal assistance agency which are not members of the joint agencies organizing that
20 joint municipal assistance agency and nonmunicipal members, as defined in G.S. 159B-
21 50, may elect members to the executive committee pursuant to those procedures as they
22 agree upon among themselves, but subject to the following: if the number of the member
23 municipalities and nonmunicipal members is seven or less, those municipalities and
24 nonmunicipal members, acting jointly, may appoint one member to the executive
25 committee, and if the number of the member municipalities and nonmunicipal members
26 is more than seven, those member municipalities and nonmunicipal members, acting
27 jointly, may appoint two members to the executive committee.

28 (c) Members of the executive committee appointed by the member municipalities
29 and nonmunicipal members, and members of any subcommittee created by those member
30 municipalities and nonmunicipal members, may receive compensation, and be paid
31 expenses, for the performance of their duties as determined by the member municipalities
32 and nonmunicipal members appointing those members. However, for any member of an
33 executive committee who is an employee of a member municipality or nonmunicipal
34 member, a payment in lieu of any compensation shall be made to the member
35 municipality or nonmunicipal member for distribution to the executive committee
36 member in the manner and amount, if any, it deems appropriate."

37 Sec. 28. G.S. 159B-44(8) reads as rewritten:

38 "(8) To acquire and maintain an administrative office building or office at
39 such place or places as it may determine, which building or office may
40 be used or owned together with any joint agency or agencies,
41 municipalities, corporations, associations or persons under such terms
42 and provisions for sharing costs and otherwise as may be determined;".

43 Sec. 29. G.S. 159B-45 reads as rewritten:

1 **"§ 159B-45. Dissolution.**

2 Whenever the governing board of a joint municipal assistance agency and the
3 governing boards of its member joint agencies or municipalities shall by resolution or
4 ordinance determine that the purposes for which the joint municipal assistance agency
5 was formed have been substantially fulfilled and that all obligations incurred by the joint
6 municipal assistance agency have been fully paid or satisfied, ~~such the governing boards~~
7 ~~may declare~~ board of the joint municipal assistance agency may by resolution declare the
8 joint municipal assistance agency to be dissolved. On the effective date of such resolution
9 ~~or ordinance, declaring the joint agency to be dissolved,~~ the title to all funds and other
10 property owned by the joint municipal assistance agency at the time of such dissolution
11 shall vest in the members of the joint municipal assistance agency as provided in this
12 Chapter and the bylaws of the joint municipal assistance agency. Notice of such
13 dissolution shall be filed with the Secretary of State."

14 Sec. 30. G.S. 159B-46 reads as rewritten:

15 **"§ 159B-46. Reports, liability, and personnel.**

16 (a) Each joint municipal assistance agency shall, following the closing of each
17 fiscal year, submit an annual report of its activities for the preceding year to the
18 governing boards of its members. Each such report shall set forth an operating and
19 financial statement covering the operations of the joint municipal assistance agency
20 during such year. The joint municipal assistance agency shall cause an audit of its books
21 of record and accounts to be made at least once in each year by independent certified
22 public accountants.

23 (b) No commissioner, alternate commissioner or director or officer of any joint
24 municipal assistance ~~agency or officer of any municipality~~ agency, member of an executive
25 committee created pursuant to G.S. 159B-10, officer of any joint agency or municipality,
26 or person or persons acting in their behalf, while acting within the scope of his authority,
27 shall be subject to any personal liability or accountability by reason of his carrying out
28 any of the powers expressly or impliedly given in this Article.

29 (c) Each municipality, joint agency and joint municipal assistance agency shall be
30 severally liable for its own acts or omissions and not jointly or severally liable for the
31 acts, omissions, or obligations of others, including other municipalities.

32 (d) In no event shall any municipality or joint agency be liable or responsible for
33 any acts, omissions or obligations of any joint municipal assistance agency or any of its
34 officers, members of an executive committee, employees or agents; provided, however,
35 that contracts between the joint municipal assistance agency and one or more
36 municipalities or one or more joint agencies may expressly provide for the imputation of
37 or indemnification for any liability of one party thereto by the other, or for the
38 assumption of any obligation of one party thereto by the other.

39 (e) Personnel employed or appointed by a municipality and performing services
40 for or on behalf of a joint municipal assistance agency shall have the same authority,
41 rights, privileges and immunities (including coverage under the workers' compensation
42 laws) which the officers, agents and employees of the appointing municipality enjoy
43 within the territory of that municipality, whether within or without the territory of the

1 appointing municipality, when they are acting within the scope of their authority or in the
2 course of their employment.

3 (f) Personnel employed or appointed by a joint municipal assistance agency shall
4 be qualified for participation in the North Carolina Local Government Employees'
5 Retirement System with the same rights, privileges, obligations and responsibilities as
6 they would have if they were employees of a municipality.

7 (g) The offices of commissioner, alternate commissioner, officer, director and
8 member of the executive committee of a joint municipal assistance agency are hereby
9 declared to be offices which may be held by the holder of any office, place of trust or
10 profit in addition to and concurrently with those offices permitted by G.S. 128-1.1 and
11 other offices permitted by other General Statute."

12 Sec. 31. G.S. 159B-47 reads as rewritten:

13 **"§ 159B-47. Defense.**

14 (a) The board of commissioners of a joint municipal assistance agency may
15 provide for the defense of a criminal or civil proceeding brought against any current or
16 former commissioner, member of an executive committee, director, officer, agent or
17 employee either in his official or individual capacity, or both, on account of any act done
18 or omission made in the scope and course of his employment or duty as a commissioner,
19 member of an executive committee, director, officer, agent or employee of the joint
20 municipal assistance agency. The defense may be provided by the agency by its own
21 counsel, by employing other counsel or by purchasing insurance which requires that the
22 insurer provide the defense.

23 (b) The board of commissioners may appropriate funds for the purpose of paying
24 all or part of a claim made or any civil judgment entered against any of its current or
25 former commissioners, members of executive committees, directors, officers, agents or
26 employees, when such claim is made or such judgment is rendered as damages on
27 account of any act done or omission made or any act allegedly done or omission
28 allegedly made in the scope and course of his current or former employment or duty as a
29 commissioner, member of an executive committee, director, officer, agent or employee;
30 provided, however, that nothing in this section shall authorize any joint municipal
31 assistance agency to appropriate funds for the purpose of paying any claim made or civil
32 judgment entered against any current or former commissioners, members of executive
33 committees, directors, officers, agents or employees if the board of commissioners finds
34 that commissioner, member of an executive committee, director, officer, agent or
35 employee acted or failed to act because of actual fraud, corruption or actual malice on his
36 part. Any joint municipal assistance agency may purchase insurance coverage for
37 payment of claims or judgments pursuant to this section."

38 Sec. 32. G.S. 159B-48 reads as rewritten:

39 **"§ 159B-48. Nonmunicipal members; constituent institutions of The University of**
40 **North Carolina.**

41 Notwithstanding the provisions of Article 1 of Chapter 159B of the General Statutes
42 or any other provision of law, any constituent institution of The University of North
43 Carolina, as defined in Article 1 of Chapter 116 of the General Statutes, that owns a

1 system or facility for the generation, transmission, or distribution of electric power and
2 energy for public and private use, may become a member of a joint municipal assistance
3 agency. The ~~Commissioner~~commissioner and one or more alternate ~~Commissioners~~
4 commissioners designated by any such members shall be appointed by its local governing
5 board. As a member, the constituent institution has all the rights, privileges, immunities,
6 powers, authority, and responsibilities of a municipal member of a joint municipal
7 assistance agency under Article 3 of this Chapter, including, the protection and
8 immunities granted under Article 3 to those employed, appointed or otherwise acting on
9 behalf of the constituent institutions, and the power and authority to enter into contracts
10 and arrangements with a joint municipal assistance agency."

11 Sec. 33. This act becomes effective July 1, 1995.