

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2023

SESSION LAW 2023-126
SENATE BILL 211

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

The General Assembly of North Carolina enacts:

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

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

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

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

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

(a3) An authority may include one or more units of local government in a state adjoining a county in this State that is organizing an authority under this section, or a county in this State that contains one or more political subdivisions that are organizing an authority under this section, if that inclusion is permitted by the laws of the adjoining state. The governing body of the political subdivision in the adjoining state must adopt a resolution that meets the requirement of subsection (b) of this section and must also file the resolution with the Secretary of State of North Carolina and provide proof of publication as required by subsection (c) of this section. For all other purposes of this Article and notwithstanding the requirement of G.S. 162A-2(7) that a political subdivision be located in this State, the unit of local government in the adjoining state is considered a political subdivision.

(b) Each such resolution shall include articles of incorporation which shall set forth:
(1) The name of the authority;



- (2) A statement that such authority is organized under this Article;
- (3) The names of the organizing political subdivisions; and
- (4) The names and addresses of the first members of the authority appointed by the organizing political subdivisions.

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

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

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

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

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

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

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

(a3) An authority may include one or more units of local government in a state adjoining a county in this State that is organizing an authority under this section, or a county in this State that contains one or more political subdivisions that are organizing an authority under this section, if that inclusion is permitted by the laws of the adjoining state. The governing body of the political subdivision in the adjoining state must adopt a resolution that meets the requirement of subsection (b) of this section and must also file the resolution with the Secretary of State of North Carolina and provide proof of publication as required by subsection (c) of this section. For all other purposes of this Article and notwithstanding the requirement of G.S. 162A-2(7) that a

political subdivision be located in this State, the unit of local government in the adjoining state is considered a political subdivision.

- (b) Each such resolution shall include articles of incorporation which shall set forth:
- (1) The name of the authority;
 - (2) A statement that such authority is organized under this section of this Article;
 - (3) The names of the organizing political subdivisions;
 - (4) The names and addresses of the members of the authority appointed by the organizing political subdivisions; and
 - (5) A statement that members of the authority will be limited to such members as may be appointed from time to time by the organizing political subdivisions.

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

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

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

In the General Assembly read three times and ratified this the 22nd day of September, 2023.

s/ Phil Berger
President Pro Tempore of the Senate

s/ Tim Moore
Speaker of the House of Representatives

s/ Roy Cooper
Governor

Approved 3:57 p.m. this 29th day of September, 2023