



ADOPTED

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 457

AMENDMENT NO. 1
(to be filled in by
Principal Clerk)

H457-ATD-159 [v.9]

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Comm. Sub. [YES]
Amends Title [NO]
Third Edition (~~PCS80410-RN-4C~~)

Date 6-28-12, 2012

Senator Newton

29 EAU

1 moves to amend the bill on page 1, line 8, through page 2, line 31, by rewriting the lines to
2 read:

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"SECTION 1. G.S. 159B-17 reads as rewritten:

"§ 159B-17. Revenues.

(a) A municipality is hereby authorized to fix, charge and collect rents, rates, fees and charges for electric power and energy and other services, facilities and commodities sold, furnished or supplied through the facilities of its electric system or its interest in any joint project. Before it revises its rates, fees or charges as authorized under this subsection, a municipality shall hold a public hearing on the matter. A notice of the hearing shall be published at least once a week for two successive weeks in a newspaper having general circulation in the municipality. The notice shall state that the public hearing will be held in connection with the municipality's action to revise its rates, fees, or charges authorized in this section and state the amount of the proposed revision. At the hearing, any retail electric customer of the municipality may appear and be heard on the proposed revision to the rates, fees, or charges. The provisions of G.S. 160A-81 shall apply to any public hearing held under this subsection. The provisions of this subsection relating to a public hearing shall not apply to action required to be taken for a municipality by the Local Government Commission, in accordance with G.S. 159-181(c), or to action required to be taken by a municipality to revise its rates, fees or charges authorized in this subsection if the revision is required to be implemented immediately as a result of a catastrophic event or to avoid impairing the ability of the municipality to comply with applicable law or its contractual obligations relating to its outstanding bonds or other indebtedness. For so long as any bonds of a municipality are outstanding and unpaid, the rents, rates, fees and charges shall be so fixed as to provide revenues sufficient to pay all costs of and charges and expenses in connection with the proper operation and maintenance of its electric system, and its interest in any joint project, and all necessary repairs, replacements or renewals thereof, to pay when due the principal of, premium, if any, and interest on all bonds and other evidences of indebtedness payable from said revenues, to create and maintain reserves as may be required by any resolution or trust agreement authorizing and securing bonds, to pay when due the principal of, premium, if any, and interest on all general obligation bonds heretofore or hereafter issued to finance additions,



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1 improvements and betterments to its electric system, and to pay any and all amounts which the
2 municipality may be obligated to pay from said revenues by law or contract.

3 (b) A joint agency is hereby authorized to fix, charge, and collect rents, rates, fees and
4 charges for electric power and energy and other services, facilities and commodities sold,
5 furnished or supplied through the facilities of its projects or otherwise as authorized by this
6 Chapter. A joint agency may only take action to change the rates, fees, or charges authorized in
7 this subsection in a public meeting. Notice of the public meeting shall be given to each
8 municipality that is a member of the joint agency. A notice of the meeting shall be published at
9 least once a week for two successive weeks in a newspaper having general circulation in each
10 municipality that is a member of the joint agency. The notice shall state that the public meeting
11 will be held in connection with the joint agency's action to revise its rates, fees, or charges
12 authorized in this subsection and state the amount of the proposed revision. The provisions of
13 this subsection relating to publication of a notice shall not apply to action required to be taken
14 by a joint agency to revise its rates, fees or charges authorized in this subsection if the revision
15 is required to be implemented immediately as a result of a catastrophic event or to avoid
16 impairing the ability of the joint agency to comply with applicable law or its contractual
17 obligations relating to its outstanding bonds or other indebtedness. For so long as any bonds of
18 a joint agency are outstanding and unpaid, the rents, rates, fees and charges shall be so fixed as
19 to provide revenues sufficient to pay all costs of and charges and expenses in connection with
20 the proper operation and maintenance of its projects, and all necessary repairs, replacements or
21 renewals thereof, to pay when due the principal of, premium, if any, and interest on all bonds
22 and other evidences of indebtedness payable from said revenues, to create and maintain
23 reserves as may be required by any resolution or trust agreement authorizing and securing
24 bonds, and to pay any and all amounts which the joint agency may be obligated to pay from
25 said revenues by law or contract.

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

37 **SECTION 2.** G.S. 160A-314 is amended by adding a new subsection to read:

38 "(a3) Revisions in the rates, fees, or charges for electric service for cities that are members
39 of the North Carolina Eastern Municipal Power Agency must comply with the public hearing
40 provisions applicable to those cities under G.S. 159B-17."

41 **SECTION 3.** Section 1 of this act becomes effective October 1, 2012, and only
42 applies to all rates, fees, or charges for electric service provided by the North Carolina Eastern
43 Municipal Power Agency (NCEMPA) or a member city or town of the NCEMPA on or after

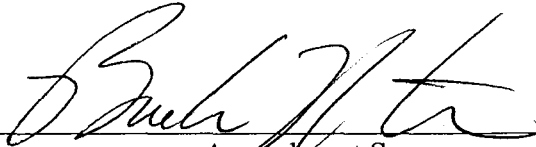
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1 that date. The following cities and towns are members of the North Carolina Eastern Municipal
2 Power Agency: Apex, Ayden, Belhaven, Benson, Clayton, Edenton, Elizabeth City, Farmville,
3 Fremont, Greenville, Hamilton, Hertford, Hobgood, Hookerton, Kinston, LaGrange,
4 Laurinburg, Louisburg, Lumberton, New Bern, Pikeville, Red Springs, Robersonville, Rocky
5 Mount, Scotland Neck, Selma, Smithfield, Southport, Tarboro, Wake Forest, Washington, and
6 Wilson. Section 2 of this act is effective October 1, 2012. The remainder of this act is
7 effective when it becomes law."
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SIGNED 
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED 40-0 FAILED _____ Tabled _____
Sarah Clapps
6.28.12

ADOPTED