

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2011

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HOUSE BILL 117
Committee Substitute Favorable 6/1/11

Short Title: Electric Cities/Uses of Rate Revenue.

(Local)

Sponsors:

Referred to:

February 17, 2011

1 A BILL TO BE ENTITLED
2 AN ACT PROVIDING THAT THE TOWNS OF CLAYTON, SELMA, AND SMITHFIELD
3 SHALL USE REVENUE DERIVED FROM RATES FOR ELECTRIC SERVICE FOR
4 PAYING THE DIRECT AND INDIRECT COSTS OF OPERATING THE ELECTRIC
5 SYSTEM, TRANSFERRING AMOUNTS THAT REPRESENT A RATE OF RETURN
6 ON THE INVESTMENT IN THE ELECTRIC SYSTEM, AND MAKING DEBT
7 SERVICE PAYMENTS.

8 The General Assembly of North Carolina enacts:

9 SECTION 1. Article 2 of Chapter 159B of the General Statutes is amended by
10 adding a new section to read as follows:

11 "**§ 159B-39. Permitted uses of revenue from electric power rates.**

12 (a) A municipality as authorized in this Chapter shall use revenue derived from rates for
13 electric service to (i) pay the direct and indirect costs of operating the electric system and (ii)
14 transfer to other funds of the municipality a sum that reflects a rate of return on the investment
15 in the electric system to the extent allowed in subsection (c) of this section. Any remaining
16 revenue shall be used to produce lower rates on electric service within the area served by the
17 municipal electric system and to make additional debt service payments on bonds or other
18 indebtedness incurred by the municipality to finance improvements to the electric system. A
19 municipality shall not otherwise transfer revenue from an electric utility fund to any other fund
20 of the municipality for any other purpose not explicitly authorized by law.

21 (b) The direct and indirect costs of operating the electric system include all of the
22 following:

- 23 (1) Debt service payments on indebtedness incurred for the electric system or
24 secured by revenues of the electric system.
25 (2) Capital improvements or equipment for the electric system.
26 (3) Payments for the cost of power purchased under contractual arrangements.
27 (4) Debt service, maintenance, renewal, and replacement or other reserves
28 required by legal documents entered into by the municipality in connection
29 with the issuance of bonds or other indebtedness for the electric system.
30 (5) Reserves deemed necessary by the governing body of the municipality to
31 assure that funds are available to maintain the financial and operational
32 integrity of the electric system.
33 (6) Maintaining a rate stabilization fund to minimize the impact of periodic rate
34 changes that would otherwise be required to reflect changes in costs of
35 operations and demand for electric service.



- 1 (7) Making payments in lieu of taxes to other governmental units to reflect
- 2 property taxes that would have been collected by the other governmental
- 3 unit if the municipality were not the owner of the electric system.
- 4 (8) Making transfers to the general fund or other funds of the municipality to
- 5 reimburse the general fund or other funds for costs paid from the fund that
- 6 are reasonably allocable to the electric system.
- 7 (c) The total amount transferred to other funds of the municipality authorized as a rate
- 8 of return on the investment of the municipality in the electric system shall not exceed the
- 9 amount allowed in this subsection. The amount to be transferred shall be calculated using
- 10 amounts reported in the municipality's audited financial statements for the preceding fiscal
- 11 year. The amount transferred shall not exceed either of the following:
- 12 (1) Three percent (3%) of the gross capital assets of the electric system at the
- 13 end of the preceding fiscal year.
- 14 (2) Five percent (5%) of the gross annual revenues of the electric system for the
- 15 preceding fiscal year.
- 16 (d) The restrictions in this section shall not apply to any action required to be taken for
- 17 a municipality by the Local Government Commission in accordance with G.S. 159-181(c)."
- 18 **SECTION 2.** This act only applies to the towns of Clayton, Selma, and Smithfield.
- 19 **SECTION 3.** This act becomes effective July 1, 2011.