

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2011**

**SESSION LAW 2011-129
HOUSE BILL 117**

AN ACT PROVIDING THAT THE TOWNS OF CLAYTON, SELMA, AND SMITHFIELD SHALL USE REVENUE DERIVED FROM RATES FOR ELECTRIC SERVICE FOR PAYING THE DIRECT AND INDIRECT COSTS OF OPERATING THE ELECTRIC SYSTEM, TRANSFERRING AMOUNTS THAT REPRESENT A RATE OF RETURN ON THE INVESTMENT IN THE ELECTRIC SYSTEM, AND MAKING DEBT SERVICE PAYMENTS.

The General Assembly of North Carolina enacts:

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

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

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

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

- (1) Debt service payments on indebtedness incurred for the electric system or secured by revenues of the electric system.
- (2) Capital improvements or equipment for the electric system.
- (3) Payments for the cost of power purchased under contractual arrangements.
- (4) Debt service, maintenance, renewal, and replacement or other reserves required by legal documents entered into by the municipality in connection with the issuance of bonds or other indebtedness for the electric system.
- (5) Reserves deemed necessary by the governing body of the municipality to assure that funds are available to maintain the financial and operational integrity of the electric system.
- (6) Maintaining a rate stabilization fund to minimize the impact of periodic rate changes that would otherwise be required to reflect changes in costs of operations and demand for electric service.
- (7) Making payments in lieu of taxes to other governmental units to reflect property taxes that would have been collected by the other governmental unit if the municipality were not the owner of the electric system.
- (8) Making transfers to the general fund or other funds of the municipality to reimburse the general fund or other funds for costs paid from the fund that are reasonably allocable to the electric system.

(c) The total amount transferred to other funds of the municipality authorized as a rate of return on the investment of the municipality in the electric system shall not exceed the amount allowed in this subsection. The amount to be transferred shall be calculated using amounts reported in the municipality's audited financial statements for the preceding fiscal year. The amount transferred shall not exceed either of the following:

- (1) Three percent (3%) of the gross capital assets of the electric system at the end of the preceding fiscal year.



(2) Five percent (5%) of the gross annual revenues of the electric system for the preceding fiscal year.

(d) The restrictions in this section shall not apply to any action required to be taken for a municipality by the Local Government Commission in accordance with G.S. 159-181(c)."

SECTION 2. This act only applies to the towns of Clayton, Selma, and Smithfield.

SECTION 3. This act becomes effective July 1, 2011.

In the General Assembly read three times and ratified this the 15th day of June, 2011.

s/ Walter H. Dalton
President of the Senate

s/ Thom Tillis
Speaker of the House of Representatives