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Chapter XII - Public Utilities

Dear Reader:

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We hope this information will be useful to you; reference to it will assist you with many of the questions that will arise in your tenure with county government. However, the *Tennessee Code Annotated* and other relevant laws or regulations should always be consulted before any action is taken based upon the contents of this document.

Please feel free to contact us if you have questions or comments regarding this information or any other CTAS website material.

Sincerely,

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Chapter XII - Public Utilities

Watauga River Regional Water Authority

Private Acts of 2001 Chapter 29

SECTION 1. Purpose and creation of Authority.

(a) A governmental authority to be known as the "Watauga River Regional Water Authority" is hereby created and established for the purpose of planning, acquiring, constructing, improving, extending, furnishing, equipping, financing, owning, operating, and maintaining a water and wastewater system, including treatment, storage, distribution and collection facilities, properties, and services, as hereinafter provided; the selling, donating, conveying, or otherwise disposing of water and wastewater; and undertaking any project or work related thereto or connected therewith. The Authority shall be a public and governmental body acting as an instrumentality and agency of the county and districts, and the powers granted are for public and governmental purposes and matters of public necessity.

(b) The purpose of the Authority is also to plan and develop the water resources of the geographic region and to provide necessary wastewater collection and treatment attendant thereto. The further purpose of the Authority is to provide environmental services and to secure economic benefits to the geographic region that is encompasses and may serve.

SECTION 2. Definitions.

Whenever used in this act, unless a different meaning clearly appears in the context, the following terms, whether used in the singular or plural, shall be given the following respective interpretations:

- (1) "Authority" means the Watauga River Water Authority created by this act;
- (2) "Board" means the board of directors of the Authority;
- (3) "Bonds" means bonds, interim certificates or other obligations of the Authority issued pursuant to this act including joint obligations of the Authority and the county, districts or municipalities;
- (4) "County" means Carter County, Tennessee;
- (5) "Districts" refer to the North Elizabethton Utility, the Siam Utility District, the Roan Mountain Utility District, and the South Elizabethton Utility District;
- (6) "Governing Body" means the Chief Legislative Body of a municipality, as hereinafter defined;
- (7) "Municipality" means any county, incorporated city or town, utility district, or other municipal, or governmental body or subdivision in this State, thereof now or hereafter authorized by law to be created;
- (8) "Notes" means notes or interim certificates of the Authority issued pursuant to this act, including joint obligations of the Authority and the county and/or districts;
- (9) "Person" means any individual, firm, partnership, association, corporation, or any combination thereof;
- (10) "Refunding Bonds" means refunding bonds, issued pursuant to this act, including joint obligations of the Authority and the county issued pursuant to this act and Tennessee Code Annotated, Title 9, Chapter 21, Parts 1 and 9, to refund bonds of the Authority or bonds issued to refund bonds or notes of the county, the districts, or a municipality issued by such county, district or municipality, the proceeds of which were used to construct, acquire, extend, improve or equip all or a portion of a system acquired by the Authority or to refund bonds, the proceeds of which were used for such purposes;
- (11) "State" means the State of Tennessee; and
- (12) "System" means a water and wastewater system, which shall include, but not be limited to, all devices and systems used in the storage, treatment, recycling and reclamation of sewage of residential, commercial and industrial wastes of a liquid nature to restore and maintain the chemical, physical and biological integrity of the State's waters; or any devices and systems used in the treatment and distribution of water, including intercepting sewers, outfall sewers, sewage collection systems, water storage facilities, water transmission lines, pumping, power and other equipment, and other appurtenances, extensions, improvements, remodeling, additions and alterations thereof; elements essential to provide a reliable recycled supply, such as standby

treatment units and clear well facilities, and any works.

As amended by: Private Acts of 2008, Chapter 95

SECTION 3. Board of Directors.

(a) The Authority shall have a Board of Directors in which all powers of the Authority shall be vested. Each Director shall have an equal vote in the affairs of the Authority.

(b) The initial membership of the Board of Directors shall consist of five (5) Directors designated as follows:

(1) The County Executive of Carter County or the designee of the County Executive who is named in a revocable written instrument executed by the County Executive.

(2) One (1) Director to be selected by each of the governing bodies of the North Elizabethton Utility District, the Siam Utility District, the Roan Mountain Utility District and the South Utility District. The governing body of each utility district is hereby authorized to appoint one (1) person as Director.

(3) Upon adoption of a resolution by a two-thirds (2/3) vote of the municipal governing body of the City of Elizabethton, the governing body of any such municipality shall appoint one (1) person to serve as an additional Director on the Board of Directors.

(4) Upon execution of an agreement between any other municipality and the authority as provided for in Section 18 of this Act, the governing body of any such municipality shall appoint one (1) person to serve as an additional Director on the Board of Directors.

(c) All vacancies on the Board shall be filled as follows:

(1) For the Director selected pursuant to subdivision (b)(1) above, vacancies shall be filled by the County Executive of Carter County or his or her designee;

(2) For the Directors selected pursuant to subdivision (b)(2) above, vacancies shall be filled by the governing body of the utility district which was represented by the departing Director.

(3) For the Directors selected pursuant to subdivision (b)(3) above, vacancies shall be filled by the governing body of the municipality which was represented by the departing Director.

(d) The term of a Director serving pursuant to subdivision (b)(1) shall be concurrent with the term of office of the County Executive of Carter County. The term of a Director serving pursuant to subdivision (b)(2), or the term of a Director representing a utility district pursuant to subdivision (b)(3) shall be four (4) years. The term of a Director serving pursuant to subdivision (b)(3) representing a municipality other than a utility district shall be concurrent with the term of office of the chief executive of such municipality.

(e) A majority of the Board constitutes a quorum, and the Board shall act by a vote of a majority present at any meeting attended by a quorum. Vacancies among the Directors shall not affect their power and authority, so long as a quorum remains. Within thirty (30) days after their selection, as herein provided, the Board shall hold a meeting to elect a Chairman, a Vice-Chairman, a Secretary and a Treasurer, and/or such other officers as shall from time to time be deemed advisable by the Board. The Secretary shall keep minutes of all regular and special meetings of the Authority. Such minutes shall be available for inspection by the public at the office of the Authority at all reasonable times.

(f) The Board shall hold meetings at such times and places as the Board may determine and all such meetings shall be open to the public. Special meetings may be called and held upon such notice and in such manner as the Board may, by resolution, determine. Except as otherwise expressly provided herein, the Board shall establish its own rules of procedure. Any action taken by the Board exercising its powers and authority under the provisions of this act may be exercised by vote or resolution at any regular or special meeting.

(g) All Directors shall serve with compensation as the Board may determine by resolution. The Board, upon a majority vote, may set compensation up to, but not exceeding, one hundred dollars (\$100) per Director per meeting of the Authority; provided, however, that the Directors shall not be compensated for more than twelve (12) meetings in one calendar year.

As amended by: Private Acts of 2008, Chapter 95

SECTION 4. Powers of the Authority.

The Authority shall have the following powers in addition to those specified in other sections of this act, together with powers incidental thereto or necessary for the performance of those hereinafter stated.

(1) To sue and be sued and to prosecute and defend, at law or in equity, in any court having jurisdiction of the subject matter and of the parties;

(2) To have a seal and to alter the same at pleasure, provided, however, the absence thereof shall

have no effect on the validity of any document, instrument or other writing;

(3) To plan, establish, acquire, whether by purchase, exchange, gift, devise, lease, the exercise of the power of eminent domain, or otherwise, and to construct, equip, furnish, improve, repair, extend, maintain, and operate one (1) or more systems within or without the geographic boundary and service areas of the county or districts as such boundaries now or may hereafter exist, including all real and personal property, facilities, and appurtenances which the Board of the Authority may deem necessary in connection therewith and regardless of whether or not such system shall then be in existence;

(4) To enter in to agreements with the county, the districts and any municipality for the orderly transfer of all or any part of the system of the county, the districts or such municipality, and to the extent permitted by law and contract, to assume, to reimburse or to otherwise agree to pay outstanding obligations or liabilities of the county, the districts or such municipality incurred to acquire, extend or equip the system;

(5) To enter into agreements with the county, the districts and any other municipality, to acquire by lease, gift, purchase or otherwise any system or property related thereto, of the county, the districts or such municipality and operate such system separately or as a part of its systems; or enter into agreements with the county, the districts or any municipality providing for the operation by the Authority of the system, or any portion thereof, owned by the county, the districts or municipality;

(6) To acquire, whether by purchase, exchange, gift, devise, lease, the exercise of the power of eminent domain, or otherwise, any and all types of property, franchises, assets, and liabilities, whether real, personal, or mixed, tangible or intangible, and whether or not subject to mortgages, liens, charges or other encumbrances and to hold, sell, lease, exchange, donate, or convey its properties, facilities, services, but only for the purpose of continuing operation of any system by the Authority, whenever the Board of the Authority shall find such action to be in furtherance of the purposes for which the Authority is hereby created; provided, however, revenues of any system of the Authority is hereby accounted for in such manner as not to impair the obligations of contract with reference to bond issues or other legal obligations of the transferor and shall fully protect and preserve the contract rights vested in the owners of outstanding bonds, obligations, or contractual interests; provided, further, any income from the sale of such properties, facilities, and services shall be dedicated to the continued operation of any system by the Authority;

(7) To buy, sell, store, treat and distribute water; to collect and provide treatment for wastewater from, with or to any municipality or other governmental unit of the State or any agency thereof or the United States or any agency thereof, or any persons whether public or private, and to enter into contracts, agreements, or other arrangements with the county, districts, any municipality or other persons in connection therewith;

(8) To make and enter into all contracts, trust instruments, agreements, and other instruments with the county, districts, any municipality, the State or agency thereof, the United States or any agency thereof, or any person, including without limitation, bonds, notes, loan agreements with the Tennessee Local Development Authority and/or the Tennessee Department of Environment and Conservation and other forms of indebtedness as if it were a local government as such term is defined in applicable statutes governing grants and loans, to construct, equip or extend the system, and to enter into contracts for the management and operation of a system or any facilities or service of the Authority for the treatment, processing, collection, distribution, storage, transfer, or disposal of water and wastewater;

(9) To incur debts, to borrow money, to issue bonds, and to provide for the rights of the holders thereof;

(10) To apply for, accept and pledge donations, contributions, loans, guarantees, financial assistance, capital grants, or gifts from the county, districts, any municipality, the State or any agency thereof, the United States or any agency thereof, or any person, whether public or private, for or in aid of the purposes of the Authority, to enter into agreements in connection therewith and to accept the same;

(11) To pledge all or any part of the revenues, receipts, donation, contributions, loans, guarantees, financial assistance, capital grants, or gifts of the Authority, to mortgage and pledge one (1) or more of its systems or any part or parts thereof, whether then owned or thereafter acquired, and to assign and pledge all or any part of its interest in and rights under contracts and other instruments relating thereto as security for the payments of the principal, premium, if any, and interest on bonds, refunding bonds, loan agreements or notes issued by the Authority;

- (12) To have control of its systems, facilities, and services with the right and duty to establish and charge rates, fees, rental, tolls, deposits and other charges for the use of the facilities and services of the Authority, of the sale of materials or commodities by the Authority and to collect revenues and receipts therefrom, not inconsistent with the rights of holders of its bonds, refunding bonds, and notes;
- (13) To enter onto any lands, waters, and premises for the purpose of making surveys, soundings, and examinations in and for the furtherance of the purposes authorized by this act;
- (14) To use any right-of-way, easement, or other similar property right necessary or convenient in connection with a system, held by the State or any political subdivision thereof, provided the governing body of such political subdivision consents to such use;
- (15) To employ and pay compensation to such agents, including attorneys, accountants, engineers, architects, and financial advisors, as the Board shall deem necessary for the business of the Authority;
- (16) To employ and pay compensation to such employees, including a general manager, who shall have such authority, duties, and responsibilities as the Board deems necessary;
- (17) To procure and enter into contracts for any type of insurance or indemnity against loss or damage to property from any cause, including loss of use and occupancy, against death or injury of any act of any member, officer, or employee of the Authority in the performance of the duties of the office or employment or any other insurable risk, including the payment of its bonds, refunding bonds or notes, as the Board in its discretion may deem necessary;
- (18) To enter into, by contract with the county and/or the districts, or otherwise, a plan for pension, disability, hospitalization and death benefits for the officers and employees of the Authority;
- (19) To exercise all powers expressly given to it and necessarily implied therefrom, to make and execute contracts and all other instruments necessary or convenient to do any and all things for the exercise of its powers hereunder, and to establish and make rules and regulations not inconsistent with the provision of this act, deemed expedient for the management of the Authority's affairs;
- (20) To adopt by majority vote of the Board the purchasing procedures for utility districts as defined in Tennessee Code Annotated Title 7, Chapter 82, Part 8; and
- (21) To make all necessary investments, in the discretion of the Board, consistent with the powers of local governments to make such investments as provided in Tennessee Code Annotated, Section 9-1-107.

SECTION 5. Condemnation and eminent domain.

The Authority may condemn in its own name any land, rights in land, easements, and/or rights-of-way which in the judgment of the Board, are necessary for carrying out the purposes for which the Authority is created, and such property or interest in such property may be so acquired whether or not the same is owned or held for public use by persons having the power of eminent domain, or otherwise held or used for public purposes; provided, however, such prior public use will not be interfered with by the use to which such property will be put by the Authority; provided further, the exercise of eminent domain power shall be approved by a majority of those present and voting on the Board of the Authority. Such power of condemnation may be exercised in the manner prescribed by any applicable statutory provisions now in force or hereafter enacted for the exercise of the power of eminent domain.

SECTION 6. Rates sufficient to pay costs and retire bonds.

The Board shall prescribe and collect reasonable rates, fees, tolls, or charges for the services, facilities, and commodities of any system, shall prescribe penalties for the nonpayment thereof, and shall revise such rates, fees or charges from time to time whenever necessary to ensure that any system shall be and always remain self-supporting. The rates, fees, tolls, or charges prescribed shall be such as will always produce revenue at least sufficient:

- (1) To provide for all expenses of operation and maintenance of the system, including reserves therefor;
- (2) To pay when due all bonds, notes and interest and premium thereon for the payment of which such revenues are or shall have been pledged, charged, or otherwise encumbered, including reserves therefor; and
- (3) To provide for the extension or improvement of the system. Provided, however, that the Authority shall charge equal rates to the county, the districts, and any municipality hereinafter entering into such an agreement with the Authority as provided in Section 18 of this act. This

provision shall apply to the rates charged for the provision of services as outlined in Section 4 (7) of this act.

SECTION 7. Notes of the Authority.

(a) The Authority may issue, by resolution adopted by the Board, interest-bearing bond anticipation notes for all purposes for which bonds can be legally authorized and issued by the Authority. Such notes shall be secured by the proceeds from the sale of the bonds in anticipation of which the notes are issued and additionally secured by a lien upon the revenues of the system on a parity with the bonds in anticipation of which such notes are issued. In no event shall the amount of outstanding bond anticipation notes exceed the principal amount of the bonds to be issued by the Authority. The notes shall mature not later than two (2) years from their date of issuance and may be extended or renewed for not more than two (2) additional period of two (2) years each by resolution of the Board and the issuance of renewal or extension notes.

(b) Notes shall be sold at public or private sale for not less than ninety-seven percent (97%) of the par value thereof and accrued interest as the Board may direct. Notes may be sold in one (1) or more series, may bear such date or dates, may bear interest at such rate or rates (which may vary from time to time), may be payable at such time or times, may be in such denomination or denominations, may be in such form, either coupon or registered, may be payable at such place or places, may be executed in such manner, may be payable in such medium of payment, may be subject to such terms of redemption, without a premium or, for notes sold for not less than the par value thereof and accrued interest, without or with a premium, all as may be provided by resolution of the Board.

(c) Notes shall be executed in the name of the Authority by the proper officials authorized to execute the same, together with the seal of the Authority attached thereto.

(d) The proceeds arising from the sale of such notes shall be disbursed as provided by the resolution authorizing the issuance of the notes. The term "bond anticipation notes" includes interim certificates or other temporary obligations which may be issued by the Authority to the purchaser of such notes upon the terms and conditions herein provided. When the bonds shall be issued and sold a sufficient amount of the proceeds of the bonds shall be applied to the payment of the notes at their maturity or upon their earlier redemption as directed by the Board of resolution.

(e) The Authority herein granted to issue "bond anticipation notes" also includes the issuance of "grant anticipation notes," to be secured by the grant in anticipation of which such notes are issued, with all provisions of this section being applicable to such grant anticipation notes.

SECTION 8. Bonds of the Authority.

(a) The Authority shall have the power to issue bonds from time to time to finance the construction, purchase, acquisition, extension, improvements and equipping of one (1) or more systems. All bonds issued shall be payable solely out of the revenues and receipts derived from the system for which such bonds are issued or as may be designated in the proceedings under which the bonds shall be authorized to be issued. Such bonds may be issued in one (1) or more series, may be executed and delivered at any time and from time to time, may be in such form and denomination and of such terms and maturities, may be subject to redemption prior to maturity either with or without premium, may be in fully registered form, may bear such conversion privileges and be payable in such installments and at such time or times not exceeding forty (40) years from the date thereof, may be payable at such place or places whether within or without the State of Tennessee, may bear interest at such rate or rates payable at such time or times and at such place or places and evidenced in such manner, and may contain such provisions not inconsistent herewith, all as shall be provided in the proceedings whereunder the bonds shall be authorized to be issued.

(b) Bonds may be sold at public or private sale for such price and in such manner and from time to time as may be determined by the Board of Directors to be most advantageous, and the Authority may pay any and all expenses, premiums, and commissions which its Board of Directors may deem necessary or advantageous in connection with the issuance thereof.

(c) All bonds and the interest applicable thereto are hereby made and shall be construed to be negotiable instruments.

(d) Interim certificates or notes or other temporary obligations pending the issuance of revenue bonds shall be payable out of proceeds of bonds or other funds of the Authority available for such purpose.

(e) Proceeds of bonds may be used for the purpose of constructing, acquiring, reconstructing, improving, equipping, furnishing, bettering, or extending a system, including the payment of interest on the bonds during construction of any project for which bonds are issued and for two (2) years after the estimated date of completion, the payment of engineering, fiscal, architectural, bond insurance, and legal expenses

incurred in connection therewith and the issuance of bonds, and the establishment of a reasonable reserve fund for the payment of principal of, and interest on, such bonds if a deficiency occurs in the revenues and receipts available for such payment.

SECTION 9. Refunding Bonds of the Authority.

(a) Any bonds at any time outstanding may, at any time and occasionally, be funded by the issuance of refunding bonds in such amount as the Board may deem necessary, but not exceeding the sum of the following:

- (1) The principal amount of the bonds being refinanced;
- (2) Applicable redemption premiums thereon;
- (3) Unpaid interest on such bonds to the date of delivery or exchange of the refunding bonds;
- (4) If the proceeds from the sale of the refunding bonds are to be deposited in trust as hereinafter provided, interest to accrue on such obligations from the date of delivery to the first or any subsequent available redemption date or dates elected, in its discretion, by the Board, or to the date or dates of maturity, whichever shall be determined by the Board to be the most advantageous or necessary to the Authority;
- (5) A reasonable reserve for the payment of principal of, and interest on, such bonds and/or a renewal and replacement reserve;
- (6) If the project to be constructed from the proceeds of the obligations being refinanced has not be completed, an amount sufficient to meet the interest charges on the refunding bonds during the construction of such project and for two (2) years after the estimated date of completion (but only to the extent that interest charges have not been capitalized from the proceeds of the obligations being refinanced); and
- (7) Expenses, premiums, and commissions of the Authority, including bond discount deemed by the Board to be necessary for the issuance of the refunding bonds. A determination by the Board that any refinancing is advantageous or necessary to the Authority or that any of the amounts provided in the preceding sentence shall be included in such refinancing, or that any of the obligations to be refinanced shall be called for redemption on the first or any subsequent available redemption date or permitted to remain outstanding until their respective dates of maturity, shall be conclusive.

(b) Any such refunding may be effected whether the bonds to be refunded shall have then matured or shall thereafter mature, either by the exchange of the refunding bonds for the bonds to be refunded thereby with the consent of the holders of the bonds so to be refunded, or by sale of the refunding bonds and the application of the proceeds thereof to the payment of the bonds refunded thereby, and regardless of whether or not the bonds to be refunded were issued in connection with the same projects or separate projects, and regardless of whether or not the bonds proposed to be refunded shall be payable on the same date or different dates or shall be due serially or otherwise.

(c) At the time of delivery of the refunding bonds, the bonds to be refunded will not be retired or a valid and timely notice of redemption of the outstanding bonds is not given in accordance with the resolution, indenture or other instrument governing one redemption of the outstanding bonds, then, prior to the issuance of the refunding bonds, the Board shall cause to be given adequate notice of its intention to issue the refunding bonds. The notice shall be given either by mail to the owners of all the outstanding bonds to be refunded at their addressees (sic) shown on the bond registration records for the outstanding bonds, or give by publication, or by such other means which may be deemed sufficient pursuant to the laws of this State. The notice shall set forth the estimated date of delivery of the bonds, refunding bonds and identify the bonds, or the individual maturities thereof, proposed to be refunded; provided, that if portions of individual maturities are proposed to be refunded the notice shall identify the maturities subject to partial refunding and the aggregate principal amount to be refunded within each maturity. If the issuance of the refunding bonds does not occur as provided in the notice, the governing body shall cause notice thereof to be given as provided above. Except as otherwise set forth in this section, the notice required pursuant to this section shall be given whether or not any of the bonds to be refunded are to be called for redemption.

(d) If any of the obligations to be refunded are to be called for redemption, notice of redemption shall be given in a manner required by the proceedings authorizing such outstanding obligations.

(e) The principal proceeds from the sale of any refunding bonds shall be applied only as follows: either,

- (1) To the immediate payment and retirement of the bonds being refunded; or
- (2) To the extent not required for immediate payment of the bonds being refunded, such proceeds shall be deposited in trust to provide for the payment and retirement of the bonds being refunded

and to pay any expenses incurred in connection with such refunding, but provision may be made for the pledging and disposition of any surplus, including, without limitation, provisions for the pledging of any such surplus to the payment of the principal of, premium, if any, and interest or any issue or series of refunding bonds. Money in any such trust fund may be invested in the discretion of the Board.

(f) Nothing herein shall be construed as a limitation on the duration of any deposit in trust for the retirement of obligations being refunded, but which shall not have matured and which shall not be presently redeemable or, if presently redeemable, shall not have been called for redemption.

SECTION 10. Security for payment of bonds and notes.

(a) The principal of, premium, if any, and interest on any bonds, refunding bonds and notes may be secured by a pledge of revenues and receipts of a system. The proceedings under which the bonds, refunding bonds or notes are authorized to be issued may contain any agreements, provisions and covenants respecting the maintenance of such system or other facilities covered thereby, the fixing and collection of rents, fees or payments with respect to any system or portions thereof covered by such proceedings, the creation and maintenance of special funds from such revenues and from the proceeds of such bonds, refunding bonds and notes and the rights and remedies available in the event of default, all as the Board shall deem advisable and not in conflict with the provisions of this act. To the extent provided in the proceedings authorizing any bonds, refunding bonds or notes, each pledge and agreement made for the benefit of security of any of the bonds, refunding bonds or notes shall continue in effect until the principal, of and interest on, the bonds, refunding bonds or notes for the benefit of which the same were made shall have been fully paid or adequate provision for the payment thereof shall have been made by the Authority. In the event of a default in such payment or in any agreements of the Authority made as part of the proceedings under which the bonds, refunding bonds or notes were issued, such payment or agreement may be enforced by suit, mandamus, or the appointment of a receiver in equity, or the proceedings under which the bonds, refunding bonds or notes are issued.

(b) The Board may designate the appropriate officials to execute all documents necessary to guarantee or, in any other manner, to secure the payment of the bonds or notes of the Authority; provided, however, the approval of the governing body of the county or district to such guarantee or security shall have been obtained before the execution of such documents. Provided, further prior to any meeting where such authorization will be considered by the governing body of the county or district, the governing body shall cause reasonable public notice to be published describing the matter to be considered and containing an estimate of the dollar amount of any contingent liability by the county or district of such authorization is given.

(c) Bonds, notes or refunding bonds may constitute a joint obligation of the Authority and the county or district. Any such bonds, note or refunding bond upon which the county is jointly obligated with the Authority may be secured by the full faith and credit and unlimited ad valorem taxing power of the county. Bonds, notes or refunding bonds issued as a joint obligation of the Authority and the county shall be issued in the form and manner of Tennessee Code Annotated, Title 9, Chapter 21, Parts 1, 2, and 9, where applicable, and in the event of a conflict between this act and Tennessee Code Annotated, Title 9, Chapter 21, Parts 1, 2, and 9, then the provisions of Tennessee Code Annotated, Title 9, Chapter 21, Parts 1, 2, and 9 shall prevail. Notes issued as a joint obligation of the Authority and the county shall be issued in the form and manner of Tennessee Code Annotated, Title 9, Chapter 21, Parts 1, 4 and 5, where applicable and in the event of a conflict between this act and the provisions of Tennessee Code Annotated, Title 9, Chapter 21, Parts 1, 4 and 5 shall prevail.

(d) any bond, note or refunding bond issued under this act may be secured by a mortgage or deed of trust covering any or all part of the property, real or personal, of the Authority. Any pledge, or lien, on revenues, fees, rents, tolls or other charges received or receivable by any local government to secure the payment of any bonds, notes or refunding bonds issued pursuant to the act and the interest thereon, shall be valid and binding from the time that the pledge or lien is created and granted and shall inure to the benefit of the holder or holders of any such bonds, notes or refunding bonds until payment in full of the principal, premium and interest thereon. Neither the resolution nor any other instrument granting, creating or giving notice of the pledge of a lien, or other such security interest, need be filed or recorded to preserve or protect the validity or priority of such pledge or lien.

SECTION 11. Exemption from taxation and State regulation.

(a) The Authority, its properties at any time owned by it, and the income and revenues therefrom, shall be exempt from all State, county and municipal taxation. All bonds, notes and refunding bonds issued by the Authority and the income therefrom shall be exempt from all State, county, and municipal taxation, except inheritance, transfer and estate taxes, or except as otherwise provided by state law. For purposes of Tennessee Code Annotated, Title 42, Chapter 2, and any amendments thereto or substitution therefor,

bonds issued by the Authority shall be deemed to be securities issued by a public instrumentality or a political subdivision of the State.

(b) Neither the Tennessee Regulatory Authority nor any other Board or commission of like character hereafter created shall have jurisdiction over the Authority in the management and control of a system, including the regulation of its rates, fees, tolls, or charges, except to the extent provided by this act; provided, however, the Authority is subject to regulation by the Department of Health and the Department of Environment and Conservation as a public water supply and public sewerage system.

SECTION 12. Liability and indebtedness of political subdivisions.

(a) Neither the county, the districts, the State, nor any municipality other than the Authority shall, except as may otherwise be authorized by the Board of Directors of the Authority and the governing body of the particular governmental entity, in any event be liable for the payment of the principal of, premium, if any, or interest on any bonds, notes or refunding bonds of the Authority or for the performance of any pledge, obligation, or agreement of any kind whatsoever which may be undertaken by the Authority, and none of the bonds, notes or refunding bonds of the Authority or any of its agreements or obligations shall be construed to constitute an indebtedness of the State, or any municipality within the meaning of any constitutional or statutory provision whatsoever.

(b) Bonds, notes or refunding bonds of the Authority shall not constitute a debt or a pledge of the faith and credit of the State or any municipality, except as may otherwise be authorized by the governing body of the county, district or municipality, and the holders or owners of such bonds shall have no right to have taxes levied by any municipality, the State or any other taxing authority within the State for the payment of principal of, premium, if any, and interest on such bonds, but shall be payable solely from revenues and monies pledged for their payment.

(c) Except as may otherwise be authorized by the governing body of the county or district(s) as specified hereinabove, all such bonds shall contain on the face thereof a statement to the effect that the bonds, refunding bonds or notes are not a debt of the State or any municipality or any other taxing authority within the State, but are payable solely from revenues and monies pledged to the payment thereof.

SECTION 13. Disposition of Funds.

No part of the net earnings of the Authority remaining after payment of its expenses shall inure to the benefit of any persons except that, at such times as no bonds, note or refunding bonds of the Authority are outstanding and unpaid and adequate provision has been made for the full payment of all liabilities, obligations and contracts of the Authority, and the Authority shall have, by operation of law, been terminated, any assets of the Authority, to the extent not necessary for such purposes, shall be paid to the county, to the districts, and to any other municipality represented on the Board, in equal proportions. To the extent allowed by this act, nothing herein contained shall prevent the Board from transferring its properties in accordance with the terms of any contract, agreement, or covenant entered into or undertaken by the Authority.

SECTION 14. Budget, annual audits, contracting procedures, personnel procedures.

(a) The Board shall annually establish and adopt a budget for the Authority.

(b) The Board shall cause to be prepared each fiscal year an annual audit of the books and records of the Authority. The Comptroller of the Treasury, through the Department of Audit, is responsible for determining that such audits are prepared in accordance with generally accepted governmental auditing standards. A copy of such annual audit shall be filed with the office of the County Executive of Carter County, and with the governing bodies of the districts. The Board shall establish employment procedures, compensation levels and benefits for the employees of the Authority.

SECTION 15. Powers of the districts.

(a) The districts may take all actions hereunder by resolution of its governing body. The districts shall have all powers necessary in order to further the purposes of this act, including, without limitation, the power to sell, lease, dedicate, donate, or otherwise convey to the Authority any of its interests in any existing water and wastewater system, franchises, assets, liabilities, or other related property, whether real or personal, or mixed, tangible or intangible, and whether or not subject to mortgages, liens, charges, or other encumbrances, or grant easements, licenses, or other rights or privileges therein to the Authority and to contract with the Authority.

(b) The districts may enter into agreements with the Authority for the orderly transfer of all or any part of its system and to enter into agreement for the Authority to assume, to pay or to refund bonds, refunding bonds and notes issued by the districts or loan agreements entered into by the districts to acquire, construct or equip all or any part of a system.

(c) The districts are authorized to advance, donate or lend money to the Authority and to provide that funds available to it for a system shall be paid to the Authority.

(d) A utility district shall have the same right to enter into any agreement with the Authority that the Board deems necessary to carry out the purposes of this act, as the utility district has to enter into similar agreements with water and wastewater treatment authorities as provided by Tennessee Code Annotated, Title 68, Chapter 221, Part 6, and as provided by the Utility District Law, Tennessee Code Annotated, Title 7, Chapter 82.

SECTION 16. Powers of the County.

(a) The county may take all actions hereunder by resolution of its governing body. The county shall have all powers necessary to further the purposes of this act, including, without limitation, the power to sell, lease, dedicate, donate, or otherwise convey to the Authority any of its interests in any existing water and wastewater system, franchises, assets, liabilities, or other related property, whether real or personal, or mixed, tangible or intangible, and whether or not subject to mortgages, liens, charges, or other encumbrances or grant easements, licenses or other rights or privileges therein to the Authority and to contract with the Authority.

(b) The county, through its governing body is authorized to issue joint obligations with the Authority and to pledge its full faith and credit and unlimited taxing power to such bonds, notes or refunding bonds and to guarantee the bonds, notes or refunding bonds as set forth in Section 10.

(c) The county may enter into agreements with the Authority for the orderly transfer of all or any part of its system and to enter into agreements with the Authority for the Authority to assume, to pay or to refund bonds, refunding bonds and notes issued by the county or loan agreements entered into by the county to acquire, construct or equip all or any part of a system.

(d) The county may advance, donate or lend money to the Authority and to provide that funds available to it for a system shall be paid to the Authority.

(e) The county has the power to enter into any other agreement with the Authority that the Board deems necessary to carry out the provisions of this act.

SECTION 17. Powers not restricted.

Neither this act nor anything herein contained shall be construed as a restriction or a limitation upon any powers which a county, city or utility district might otherwise have under any laws of this State, but shall be construed as cumulative of, and supplemental to, any such powers. No proceeding, notice, or approval shall be required with respect to the issuance of any bonds, refunding bonds or notes of the Authority or any instrument as security therefor except as provided in this act, any law to the contrary notwithstanding; provided, however, nothing herein shall be construed to deprive the State of Tennessee and its governmental subdivisions of their respective police powers, or to impair any power of any official or agency of said State and its governmental subdivisions which may be otherwise provided by law.

SECTION 18. Agreements with the Authority.

The Authority is hereby authorized, whenever the same shall be found desirable by its Board, to enter into contracts, agreements or other arrangements with any municipality regarding a system, any facility, or any service of the Authority. Any such contract or agreement may extend for any period not exceeding forty (40) years from the date thereof.

Upon execution of such agreement, the governing body of each municipality shall appoint one (1) person to serve as an additional Director on the Board of Directors of the Authority, pursuant to the terms set forth in Section 3 of this act.

Any utility district seeking to enter into such agreement with the Authority shall have the same rights and liabilities as it would otherwise have in entering into a similar agreement with a water and wastewater treatment authority as provided by Tennessee Code Annotated, Title 68, Chapter 221, Part 6, and as provided by the Utility District Law, Tennessee Code Annotated, Title 7, Chapter 82.

SECTION 19. Liberal construction.

This act is remedial in nature and shall be liberally construed to effect its purpose of providing for a systematic and efficient means of distributing and encouraging the best utilization and conservation of water resources and wastewater service and the powers herein granted may be exercised without regard to requirements, restrictions or procedural provisions contained in any other law or charter except as herein expressly provided. Provided, however, that the continued operation of any utility district entering into an agreement with the Authority, including the districts, as provided in Section 18 of this act, shall be in compliance with the Utility District Law, Tennessee Code Annotated, Title 7, Chapter 82.

SECTION 20. Severability.

If any provision of this act or the application thereof to any person or circumstance is held to be invalid, such invalidity shall not affect any other provision or application of the act which can be given effect without the invalid provision or application, and to that end the provisions of this act are declared to be severable.

SECTION 21. Local approval.

This act shall not take effect unless approved by a two-thirds (2/3) vote of the governing body of Carter County, Tennessee, which action may be by resolution. Its approval or disapproval shall be proclaimed by the presiding officer of the governing body of Carter County and certified by such officer to the Secretary of State.

SECTION 22. Effective date.

This act shall take effect immediately upon becoming law, for purposes of approving or rejecting the provisions of this act, the public welfare requiring it. For all other purposes, the act shall take effect as provided in Section 21.

Passed: April 9, 2001.

Public Utilities - Historical Notes

The following is an act that once pertained to public utilities in Carter County which is no longer effective.

1. Private Acts of 1951, Chapter 498, established the First Utility District of Carter County, which was authorized to acquire, construct, improve, maintain and operate a telephone communication system within the District. The District had the power to issue bonds to pay the cost of the telephone communication system and to issue bonds to refund any bonds of the Utility District. The refunding bonds were payable solely from the revenues received from the operation of the utility system.

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