



HOUSE BILL 206: Louisburg Economic Development Initiative.

2021-2022 General Assembly

Committee: Senate Rules and Operations of the Senate	Date: July 22, 2021
Introduced by: Rep. Winslow	Prepared by: Nicholas Giddings
Analysis of: Third Edition	Staff Attorney

OVERVIEW: *House Bill 206 would amend the law governing how member municipalities of the North Carolina Eastern Municipal Power Agency (NCEMPA) must use revenue derived from rates for electric service to their citizens, to authorize the Town of Louisburg to use a portion of this revenue to pay "costs for development or redevelopment of properties, or activities related thereto, likely to increase the municipality's number of electric customers or electric load thereby leading to reduced electric service rates, improved economic development, job growth, or community improvement."*

CURRENT LAW: [G.S. 159B-39](#) requires a NCEMPA municipality to 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 pay for costs paid from the municipality's general fund (or other fund) that are reasonably allocable to the electric system (limited to 3% of the gross capital assets of the electric system, and 5% of the gross annual revenues of the system, for the preceding fiscal year). The statute further:

- Requires that any remaining revenue must 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.
- Prohibits a municipality from otherwise transferring such revenue to any other fund of the municipality for any other purpose not explicitly authorized by law.

The statute defines "direct and indirect costs of operating the electric system" as:

- Debt service payments on indebtedness incurred for the electric system or secured by revenues of the electric system.
- Capital improvements or equipment for the electric system.
- Payments for the cost of power purchased under contractual arrangements.
- 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.
- 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.
- 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.

Jeffrey Hudson
Director



Legislative Analysis
Division
919-733-2578

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- 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.

BILL ANALYSIS: House Bill 206 would authorize the Town of Louisburg to use a portion of the revenue derived from rates for electric service provided to its citizens to pay for costs for "development or redevelopment of properties, or activities related thereto, likely to increase the municipality's number of electric customers or electric load thereby leading to reduced electric service rates, improved economic development, job growth, or community improvement." The bill would limit the amount of revenue that could be used for this purpose to circumstances where all of the following criteria are met:

- The municipality's electric rates are within 10% of the customer rates charged by any provider of electric service in a service area adjacent to the municipality during the fiscal year in which the cost is incurred.
- The municipality maintains in its electric enterprise fund moneys available to pay all costs necessary for operation of its electric system for a three-month period, which funds were not appropriated by the annual budget.
- The municipality has a fully developed capital improvement plan that includes a funding source to replace assets depreciated by seventy five percent (75%) or more.

EFFECTIVE DATE: This act would be effective when it becomes law and (i) apply to the use of revenue derived from rates for electric service to pay costs identified in G.S. 159B-39(b)(9), as enacted by Section 1 of this act, on or after that date and (ii) expire July 1, 2031.

Jennifer McGinnis, Staff Attorney in the Legislative Analysis Division, substantially contributed to this summary.