

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2023

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SENATE BILL 515
Agriculture, Energy, and Environment Committee Substitute Adopted 4/18/23
Finance Committee Substitute Adopted 4/19/23

Short Title: Water and Sewer Affordability Act.

(Public)

Sponsors:

Referred to:

April 4, 2023

A BILL TO BE ENTITLED

AN ACT TO LENGTHEN THE TIME FOR WHICH THE UTILITIES COMMISSION MAY SUSPEND PROPOSED RATES OF A PUBLIC UTILITY AND WATER AND SEWER INVESTMENT PLAN IMPLEMENTATION PENDING INVESTIGATION, TO REQUIRE LOCAL GOVERNMENT WATER AND SEWER SERVICE PROVIDERS TO DETERMINE IF THE SALE OF A WATER OR SEWER SYSTEM IS IN THE PUBLIC INTEREST, AND TO REQUIRE A PUBLIC HEARING FOR CERTAIN RATES, FEES, AND CHARGES FOR CUSTOMERS OUTSIDE THE JURISDICTIONAL BOUNDARIES OF THE UNIT OF LOCAL GOVERNMENT PROVIDING THE WATER OR SEWER SERVICE.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 62-133.1B(e) reads as rewritten:

"(e) The Commission shall, after notice and an opportunity for interested parties to be heard, issue an order ruling on the water or sewer utility's request to adjust base rates under G.S. 62-133, denying or approving, with or without modifications, a water or sewer utility's proposed Water and Sewer Investment Plan. The Commission may suspend the effect of the proposed base rates and the Water and Sewer Investment Plan implementation pending investigation in the same manner as provided in G.S. 62-134(b), provided that the Commission may suspend the implementation of the proposed base rates for no longer than 300 days. An approved plan shall be effective no later than the end of the maximum suspension period pursuant to G.S. 62-134(b)-period."

SECTION 2. Article 1 of Chapter 162A of the General Statutes is amended by adding a new section to read:

"§ 162A-19.1. Sale of a public water or sewer system.

(a) For purposes of this section, "local government service provider" means any of the following:

(1) A county.

(2) A city.

(3) A water and sewer authority created under Article 1 of Chapter 162A of the General Statutes.

(4) A metropolitan sewerage district created under Article 5 of Chapter 162A of the General Statutes.

(5) A sanitary district created under Part 2 of Article 2 of Chapter 130A of the General Statutes.



1 (6) A county water and sewer district created under Article 6 of Chapter 162A of
2 the General Statutes.

3 (7) A metropolitan water district created under Article 4 of Chapter 162A of the
4 General Statutes.

5 (8) A metropolitan water and sewerage district created under Article 5A of
6 Chapter 162A of the General Statutes.

7 (b) No local government service provider may sell to a private company a water or sewer
8 system that provides service to the public until the governing body of the local government
9 service provider has held a public hearing on the sale and made a determination that the sale is
10 in the public interest. In determining if the sale is in the public interest, the local government
11 service provider shall consider, at a minimum, all of the following:

12 (1) The physical condition of the water or sewer system being sold.

13 (2) The capital replacements, additions, expansions, and repairs needed to provide
14 reliable service and meet all applicable federal standards.

15 (3) The availability of federal and State grants and loans for system upgrades and
16 repairs.

17 (4) The willingness and the ability of the purchaser to make system upgrades and
18 repairs and provide high-quality and cost-effective service.

19 (5) The reasonableness of the contract sale price and terms.

20 (6) The most recent income and expense statement and asset and liabilities
21 balance sheet of the purchaser.

22 (7) The purchaser's existing rate base and projected rates over the next three years.

23 (8) The affordability of the projected rates for the next three years for customers
24 serviced by the system, based on the income levels of the customer base.

25 (9) The alternatives to the sale and the potential impact on utility customers if the
26 sale is not made.

27 (c) The local government service provider shall prepare a statement showing that the sale
28 is in the public interest, including a summary of the purchaser's experience in water or sewer
29 utility operation and a showing of financial ability to provide the service.

30 (d) All moneys paid by a private company to a local government service provider for the
31 purchase of a water system or sewer system shall be used for the purpose of debt reduction for
32 the system, if applicable; repayment of federal grant awards associated with the system as may
33 be required by federal law or regulation; investment in local water, wastewater, or stormwater
34 infrastructure or programs; or reducing or offsetting water and sewer service rates."

35 **SECTION 3.** Article 1 of Chapter 162A of the General Statutes is amended by
36 adding a new section to read:

37 **"§ 162A-19.2. Limitation on water and sewer rates charged to customers outside the**
38 **jurisdictional boundaries of the provider.**

39 (a) For purposes of this section, "local government service provider" means any of the
40 following:

41 (1) A county.

42 (2) A city.

43 (3) A water and sewer authority created under Article 1 of Chapter 162A of the
44 General Statutes.

45 (4) A metropolitan sewerage district created under Article 5 of Chapter 162A of
46 the General Statutes.

47 (5) A sanitary district created under Part 2 of Article 2 of Chapter 130A of the
48 General Statutes.

49 (6) A county water and sewer district created under Article 6 of Chapter 162A of
50 the General Statutes.

1 (7) A metropolitan water district created under Article 4 of Chapter 162A of the
2 General Statutes.

3 (8) A metropolitan water and sewerage district created under Article 5A of
4 Chapter 162A of the General Statutes.

5 (b) Any local government service provider establishing an increase in the rates, fees, or
6 charges for water or sewer system customers outside of the local government service provider's
7 jurisdictional boundaries may impose rates, fees, and charges that exceed the charges to
8 customers inside its boundaries. Such charges must be just and equitable and based on the same
9 factors used in fixing the rates, fees, and charges for customers inside the boundaries of the local
10 government service provider. Notwithstanding G.S. 130A-64.1, 153A-277(a1)(1),
11 160A-314(a1)(1), and 162A-9(a), if the total of all rates, fees, and charges, excluding tap fees
12 and impact fees, does not exceed the rates, fees, and charges to customers inside its boundaries
13 by more than twenty-five percent (25%), the local government service provider shall not be
14 required to hold a public hearing except as may be provided for service to customers inside the
15 boundaries of the local government service provider. If the total of all rates, fees, and charges,
16 excluding tap fees and impact fees, exceeds the rates, fees, and charges to customers inside its
17 boundaries by more than twenty-five percent (25%), the local government service provider shall
18 hold a public hearing and demonstrate that the rates, fees, and charges are just and equitable and
19 based on the same factors used in fixing the rates, fees, and charges for customers inside its
20 boundaries. This section shall not be construed to prohibit a local government service provider
21 from charging a tap fee or impact fee separate from the provisions of this subsection."

22 **SECTION 4.** Section 1 of this act is effective when it becomes law and applies to
23 rate schedules filed on or after that date. Section 2 of this act is effective when it becomes law
24 and applies to contracts for sales of water systems executed on or after that date. Section 3 of this
25 act is effective when it becomes law and applies to rates established on or after that date. The
26 remainder of this act is effective when it becomes law.