

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

Fourth Edition Engrossed 4/25/23

Short Title: Water and Sewer Affordability Act.

(Public)

Sponsors:

Referred to:

April 4, 2023

1 **A BILL TO BE ENTITLED**

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

11 The General Assembly of North Carolina enacts:

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

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

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

24 **"§ 162A-19.1. Sale of a public water or sewer system.**

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

27 (1) A county.

28 (2) A city.

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

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

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



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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, and repayment of federal grant awards associated with the system as
33 may be required by federal law or regulation. Any unspent funds remaining after debts and
34 federal grant awards have been repaid shall be deposited in the general fund of the local
35 government service provider."

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

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

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

42 (1) A county.

43 (2) A city.

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

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

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

50 (6) A county water and sewer district created under Article 6 of Chapter 162A of
51 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. Notwithstanding G.S. 130A-64.1, 153A-277(a1)(1),
9 160A-314(a1)(1), and 162A-9(a), if the total of all rates, fees, and charges, excluding tap fees
10 and impact fees, does not exceed the rates, fees, and charges to customers inside its boundaries
11 by more than twenty-five percent (25%), the local government service provider shall not be
12 required to hold a public hearing except as may be provided for service to customers inside the
13 boundaries of the local government service provider. If the total of all rates, fees, and charges,
14 excluding tap fees and impact fees, exceeds the rates, fees, and charges to customers inside its
15 boundaries by more than twenty-five percent (25%), the local government service provider shall
16 hold a public hearing and explain how the rates, fees, and charges for customers outside its
17 boundaries were determined. This section shall not be construed to prohibit a local government
18 service provider from charging a tap fee or impact fee separate from the provisions of this
19 subsection."

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