

GENERAL ASSEMBLY OF NORTH CAROLINA
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SENATE BILL DRS15228-TQf-5

Short Title: Water and Sewer Affordability Act. (Public)

Sponsors: Senators Sawyer, Perry, and Lazzara (Primary Sponsors).

Referred to:

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 LIMIT WATER AND SEWER SURCHARGES FOR CUSTOMERS
8 OUTSIDE THE JURISDICTIONAL BOUNDARIES OF THE UNIT OF LOCAL
9 GOVERNMENT PROVIDING THE WATER OR SEWER SERVICE.

10 The General Assembly of North Carolina enacts:

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

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

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

23 "**§ 162A-19.1. Sale of a public water or sewer system.**

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

26 (1) A county.

27 (2) A city.

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

36 "§ 162A-19.2. Limitation on water and sewer rates charged to customers outside the
37 jurisdictional boundaries of the provider.

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

40 (1) A county.

41 (2) A city.

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

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

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

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

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

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

3 (b) Any local government service provider establishing an increase in the rates, fees, or
4 charges for water or sewer system customers outside of the local government service provider's
5 jurisdictional boundaries shall charge customers outside the boundaries rates, fees, and charges
6 determined in either of the following manners:

7 (1) The local government service provider may impose the same rates, fees, and
8 charges as it charges to customers inside its boundaries. The local government
9 service provider may also add a surcharge of not more than twenty-five
10 percent (25%) of those rates, fees, and charges to customers outside the
11 boundaries. Notwithstanding G.S. 130A-64.1, 153A-277(a1)(1),
12 160A-314(a1)(1), and 162A-9(a), fixing of rates, fees, and charges in this
13 manner shall not require a public hearing except as may be provided for
14 service to customers inside the boundaries of the local government service
15 provider.

16 (2) The local government service provider may impose rates, fees, and charges
17 that exceed the charges to customers inside its boundaries. Such charges must
18 be just and equitable and based on the same factors used in fixing the rates,
19 fees, and charges for customers inside the boundaries of the local government
20 service provider. The local government service provider may also add (i) a
21 surcharge of not more than twenty-five percent (25%) of the rates, fees, and
22 charges for the customers outside the boundaries and (ii) a capital fee for those
23 customers' share of the water system and sewer system capital investments.
24 However, the total of all rates, fees, and charges for the services to customers
25 outside the boundaries shall not be more than seventy-five percent (75%) in
26 excess of the total amount the local government service provider charges
27 customers served within the local government service provider's boundaries
28 for corresponding service, unless the local government holds a public hearing
29 and demonstrates the rates, fees, and charges are determined in accordance
30 with this section."

31 **SECTION 4.(a)** G.S. 153A-277(a) reads as rewritten:

32 "(a) A county may establish and revise from time to time schedules of rents, rates, fees,
33 charges, and penalties for the use of or the services furnished or to be furnished by a public
34 enterprise. Schedules of rents, rates, fees, charges, and penalties may vary for the same class of
35 service in different areas of the county and may vary according to classes of service, and different
36 schedules may be adopted for services provided outside of the county. However, for purposes of
37 water and sewer services, a county may not charge rates, fees, and charges in excess of those
38 allowed by G.S. 162A-19.2. A county may include a fee relating to subsurface discharge
39 wastewater management systems and services on the property tax bill for the real property where
40 the system for which the fee is imposed is located."

41 **SECTION 4.(b)** G.S. 160A-58.5 reads as rewritten:

42 "**§ 160A-58.5. Special rates for water, sewer and other enterprises.**

43 For the purposes of G.S. 160A-314, provision of public enterprise services within satellite
44 corporate limits shall be considered provision of service for special classes of service distinct
45 from the classes of service provided within the primary corporate limits of the city, and the city
46 may fix and enforce schedules of rents, rates, fees, charges and penalties in excess of those fixed
47 and enforced within the primary corporate limits. A city providing enterprise services within
48 satellite corporate limits shall annually review the cost thereof, and shall take such steps as may
49 be necessary to insure that the current operating costs of such services, excluding debt service on
50 bonds issued to finance services within satellite corporate limits, does not exceed revenues

1 realized therefrom. However, for purposes of water and sewer services, a city may not charge
2 rates, fees, and charges in excess of those allowed by G.S. 162A-19.2."

3 **SECTION 4.(c)** G.S. 160A-314(a) reads as rewritten:

4 "(a) A city may establish and revise from time to time schedules of rents, rates, fees,
5 charges, and penalties for the use of or the services furnished or to be furnished by any public
6 enterprise. Schedules of rents, rates, fees, charges, and penalties may vary according to classes
7 of service, and different schedules may be adopted for services provided outside the corporate
8 limits of the city. However, for purposes of water and sewer services, a city may not charge rates,
9 fees, and charges in excess of those allowed by G.S. 162A-19.2."

10 **SECTION 4.(d)** G.S. 162A-6(a)(9) reads as rewritten:

11 "(9) To fix and revise from time to time and to collect rates, fees and other charges
12 for the use of or for the services and facilities furnished by any system
13 operated by the authority, including rates for water stored by the authority
14 through programs to store and protect water resources in the region served by
15 the authority. Schedules of rates, fees, and other charges may vary according
16 to classes of service for programs to store and protect water resources.
17 However, an authority may not charge customers outside the boundaries of
18 the authority rates, fees, and other charges in excess of those allowed by
19 G.S. 162A-19.2. For purposes of this subdivision, "programs to store and
20 protect water resources" includes aquifer or surficial storage."

21 **SECTION 4.(e)** G.S. 162A-36(a)(8) reads as rewritten:

22 "(8) To fix and revise from time to time and to collect rents, rates, fees and other
23 charges for the use of the services and facilities furnished by any water or
24 sewerage ~~system;~~system, provided, however, that a district may not charge
25 customers outside the boundaries of the district rates, fees, and other charges
26 in excess of those allowed by G.S. 162A-19.2;."

27 **SECTION 4.(f)** G.S. 162A-69(8) reads as rewritten:

28 "(8) To fix and revise from time to time and to collect rents, rates, fees and other
29 charges for the use of or for the services and facilities furnished by any
30 sewerage ~~system;~~system, provided, however, that a district may not charge
31 customers outside the boundaries of the district rates, fees, and other charges
32 in excess of those allowed by G.S. 162A-19.2;."

33 **SECTION 4.(g)** G.S. 162A-87.3(b) reads as rewritten:

34 "(b) A county water and sewer district may provide a different schedule of rents, rates,
35 fees, and charges for services provided outside the district. However, a county water and sewer
36 district may not charge customers outside the district rates, fees, and other charges in excess of
37 those allowed by G.S. 162A-19.2."

38 **SECTION 5.** Section 1 of this act is effective when it becomes law and applies to
39 rate schedules filed on or after that date. Section 2 of this act is effective when it becomes law
40 and applies to contracts for sales of water systems executed on or after that date. Section 3 of this
41 act is effective when it becomes law and applies to rates established on or after that date. The
42 remainder of this act is effective when it becomes law.