

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2023

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

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 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.



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 to a private company a water or sewer
6 system that provides service to the public until the governing body of the local government
7 service provider has held a public hearing on the sale and made a determination that the sale is
8 in the public interest. In determining if the sale is in the public interest, the local government
9 service provider shall 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 years.

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

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

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

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

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

35 "§ 162A-19.2. Limitation on water and sewer rates charged to customers outside the
36 jurisdictional boundaries of the provider.

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

39 (1) A county.

40 (2) A city.

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

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

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

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

49 (7) A metropolitan water district created under Article 4 of Chapter 162A of the
50 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 may impose rates, fees, and charges that exceed the charges to
6 customers inside its boundaries. Such charges must be just and equitable and based on the same
7 factors used in fixing the rates, fees, and charges for customers inside the boundaries of the local
8 government service provider. 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 twenty-five percent (25%) of the rates, fees, and charges to
11 customers inside its boundaries, the local government service provider shall not be required to
12 hold a public hearing except as may be provided for service to customers inside the boundaries
13 of the local government service provider. If the total of all rates, fees, and charges, excluding tap
14 fees and impact fees, exceeds twenty-five percent (25%) of the rates, fees, and charges to
15 customers inside its boundaries, the local government service provider shall hold a public hearing
16 and demonstrate that the rates, fees, and charges are just and equitable and based on the same
17 factors used in fixing the rates, fees, and charges for customers inside its boundaries. This section
18 shall not be construed to prohibit a local government service provider from charging a tap fee or
19 impact fee separate from the provisions of this subsection."

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

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

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

31 "**§ 160A-58.5. Special rates for water, sewer and other enterprises.**

32 For the purposes of G.S. 160A-314, provision of public enterprise services within satellite
33 corporate limits shall be considered provision of service for special classes of service distinct
34 from the classes of service provided within the primary corporate limits of the city, and the city
35 may fix and enforce schedules of rents, rates, fees, charges and penalties in excess of those fixed
36 and enforced within the primary corporate limits. A city providing enterprise services within
37 satellite corporate limits shall annually review the cost thereof, and shall take such steps as may
38 be necessary to insure that the current operating costs of such services, excluding debt service on
39 bonds issued to finance services within satellite corporate limits, does not exceed revenues
40 realized therefrom. However, for purposes of water and sewer services, a city may not charge
41 rates, fees, and charges in excess of those allowed by G.S. 162A-19.2."

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

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

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

50 "(9) To fix and revise from time to time and to collect rates, fees and other charges
51 for the use of or for the services and facilities furnished by any system

1 operated by the authority, including rates for water stored by the authority
2 through programs to store and protect water resources in the region served by
3 the authority. Schedules of rates, fees, and other charges may vary according
4 to classes of service for programs to store and protect water resources.
5 However, an authority may not charge customers outside the boundaries of
6 the authority rates, fees, and other charges in excess of those allowed by
7 G.S. 162A-19.2. For purposes of this subdivision, "programs to store and
8 protect water resources" includes aquifer or surficial storage."

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

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

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

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

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

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

26 **SECTION 5.** Section 1 of this act is effective when it becomes law and applies to
27 rate schedules filed on or after that date. Section 2 of this act is effective when it becomes law
28 and applies to contracts for sales of water systems executed on or after that date. Section 3 of this
29 act is effective when it becomes law and applies to rates established on or after that date. The
30 remainder of this act is effective when it becomes law.