



HOUSE BILL 1087: Water/Wastewater Public Enterprise Reform.

2019-2020 General Assembly

Committee:	Senate Appropriations/Base Budget.	If Date:	June 16, 2020
	favorable, re-refer to Rules and Operations of the Senate		
Introduced by:	Rep. Lambeth	Prepared by:	Jeff Cherry
Analysis of:	PCS to Fourth Edition H1087-CSMHxfa-12		Staff Attorney

OVERVIEW: *The PCS for House Bill 1087 would do all the following:*

- *Establish a process for identifying distressed public water systems and wastewater systems.*
- *Establish the Viable Utility Fund, within the Department of Environmental Quality, to be used for assisting public water and wastewater systems to become self-sustaining.*
- *Establish a process for a water or wastewater system created under Chapter 162 of the General Statutes to request merger or dissolution of that system.*
- *Encourage interlocal cooperation between public water and wastewater systems.*
- *Make a one-time transfer of \$9,000,000 from the One NC Fund to the Viable Utility Fund and appropriate those funds for the purposes of the Viable Utility Fund.*
- *Appropriate \$9 million to the Southern Regional Area Health Education Center in Fayetteville.*
- *Reallocate \$2 million of unused funds appropriated in a prior budget bill to the PFAS Recovery Fund for a variety of local water quality and PFAS response activities.*
- *Appropriate funds received by the State from the environmental mitigation trust established in settlement of the Volkswagen Clean Diesel Marketing, Sales Practices, and Products Liability litigation in accordance with Phase 1 of the Department of Environmental Quality's Mitigation Plan.*
- *Make one-time transfers from the Shallow Draft Navigation Channel Dredging and Aquatic Weed Fund and the Film and Entertainment Grant Fund and appropriate those funds for various water resources development projects.*

[A substantially identical version of Sections 1 through 5 of this PCS was ratified by the General Assembly in both S553 and H966 during the 2019 Session. Both bills were vetoed by the Governor, were not overridden by the General Assembly, and, therefore, did not become law]

CURRENT LAW & BILL ANALYSIS:

DEQ's Division of Water Infrastructure (Division) administers programs to provide grants and low-interest loans to local government units for water and wastewater infrastructure projects. The State Water Infrastructure Authority (SWIA) consists of nine members, is within the Division, and is tasked with, among other things:

- Establishing priorities for making loans and grants.

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- Developing a master plan to meet the State's water infrastructure needs.
- Determining the rank of applications and to select the applications eligible to receive loans and grants.

In addition to federal programs such as the Community Development Block Grant, the Division and SWIA administer the Clean Water State Revolving Fund and the Drinking Water State Revolving Fund.

The Local Government Commission (LGC), composed of nine members, provides assistance to local governments and public authorities, approves the issuance of debt for all units of local government, and assists those units with fiscal management.

Part I (Sections 1-6) would:

- Establish a process for identifying and assessing distressed public water systems and wastewater systems.
- Establish the Viable Utility Fund, within DEQ, to be used for assisting public water and wastewater systems to become self-sustaining.
- Establish a process for a water or wastewater system created under Chapter 162 of the General Statutes to request merger or dissolution of that system.
- Require DEQ to study the statutes and rules governing subbasin transfers and make recommendations as to whether the statutes and rules should be amended. The study must specifically examine whether transfers of water between subbasins within the same major river basin should continue to be required to comply with all of the same requirements under G.S. 143 215.22L as transfers of water between major river basins. In conducting this study, the Department shall consider whether the costs of complying with specific requirements, including financial costs and time, are justified by the benefits of the requirements, including the production of useful information and public notice and involvement. No later than January 15, 2021, the Department of Environmental Quality must report its findings and recommendations to the Environmental Review Commission.
- Require the Department of State Treasurer to study and make recommendations as to the feasibility of authorizing historical charters for units of local government that have become, or are on the brink of becoming, defunct. The study must specifically examine whether these historical charters are needed, the impact of these charters on the bond rating of the State and its political subdivisions, and the consequences of these historical charters. No later than January 15, 2021, the Department of State Treasurer must report its findings and recommendations to the General Assembly.

Part II of the bill provides funds to the Viable Utility Reserve and the Southern Regional Area Health Education Center.

- **Section 7** transfers \$9 million from the One North Carolina Fund cash balance to the Water Infrastructure Fund and appropriates and allocates those funds to the Viable Utility Reserve established by Part I of the bill.
- **Section 8** appropriates \$4.8 million from the Coronavirus Relief Fund to the Board of Governors of the University of North Carolina system for the Southern Regional Area Health Education Center in Fayetteville to be used for medical residencies at the Center and for related facility and structural improvements associated with the Center's residency program.

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- **Section 9** reallocates certain funds originally appropriated to the PFAS Recovery Fund by the 2018 Appropriations Act in order to fund dissolution of a conservation easement for Little Alamance Creek, investigation of certain petroleum release by the Department of Environmental Quality, recreational water quality testing by a western North Carolina nonprofit organization, and PFAS response actions of four local governments (Maysville, Benson, Angier, and Kenansville). These funds were originally appropriated to connect affected parties (including a household, business, school, or public building) with PFAS-contaminated drinking water wells to public water supplies and to provide funds to local governments for planning, analysis, and surveying of waterline extensions to affected parties.

Part III of the bill appropriates \$30.6 million from the Volkswagen Litigation Environmental Mitigation Fund to the Department of Environmental Quality in order to carry out phase one of the Department's Beneficiary Mitigation Plan for the use of funds received by the State as a beneficiary of the environmental mitigation trust established as part of the consent decree resolving the Volkswagen "Clean Diesel" litigation. The Department's plan for phase one includes funds for diesel bus or vehicle replacements or upgrades, and for zero emissions vehicle infrastructure.

Part IV of the bill appropriates and allocates \$28.4 million to provide State matching funds for various federally funded water resources development projects. The funds were generated by transfers of \$24.6 million in equal shares from the Shallow Draft Navigation Channel and Aquatic Weed Fund and the Film and Entertainment Grant Fund, as well as carryforwards from projects funded in previous fiscal years.

Part V (Sections 12 and 13) incorporates the State Budget Act into the bill and clarifies that other legislation enacted during the 2019 Regular Session of the General Assembly appropriating funds to any agency covered by the bill remain in effect except where expressly repealed or amended by the bill.

EFFECTIVE DATE: The bill become effective July 1, 2020.

****Kyle Evans and Erika Churchill of the Legislative Analysis Division substantially contributed to this summary.****