



# HOUSE BILL 777: Various Retirement Chngs/Wastewater Reform.

2019-2020 General Assembly

<b>Committee:</b> Senate Rules and Operations of the Senate	<b>Date:</b> June 26, 2019
<b>Introduced by:</b> Reps. Belk, Gill, Hurley, Martin	<b>Prepared by:</b> Billy R. Godwin
<b>Analysis of:</b> Second Edition	Staff Attorney

**OVERVIEW:** *House Bill 777 would do two things:*

- *Make various changes to the pension statutes and the unclaimed property statutes.*
- *Make changes to the water and wastewater public enterprise statutes to address systems that exhibit signs of failure to generate sufficient revenues to adequately fund management, operation, and maintenance, and reinvestment of reliable water and wastewater services.*

*The bill is in Senate finance because Section 25(l) provides a statutory process for merger and dissolution of water and wastewater systems established under Chapter 162A of the General Statutes.*

**CURRENT LAW AND BILL ANALYSIS OF PART V:**

Part V of the bill<sup>1</sup> would reform water/wastewater public enterprise law in the following ways:

- 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, funded by a surcharge on all customers of public water and public wastewater systems.
- 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.

***Identifying distressed public water and wastewater systems, and establishing the Viable Utility Fund to be used to assist public water and wastewater systems to become self-sustaining.***

The Division of Water Infrastructure (Division), part of the Department of Environmental Quality (DEQ), 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.
- 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.

<sup>1</sup> Original contents found in SB 536 and HB 570.

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# House Bill 777

Page 2

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.

Effective October 1, 2019, the bill would do the following:

- Require SWIA, with the LGC, to develop criteria to determine how to assess distressed units of local government. A distressed unit is a "public water system or wastewater system operated by a local government unit exhibiting signs of failure to identify or address those financial or operating needs necessary to enable that system to become or to remain a local government unit generating sufficient revenues to adequately fund management and operations, personnel, appropriate levels of maintenance, and reinvestment that facilitate the provision of reliable water or wastewater services."
- Require a local government identified as a distressed unit to do all of the following:
  - Conduct an asset assessment and rate study.
  - Participate in a training and educational program. Attendance would be mandatory for governing board members and any staff whose participation is required by SWIA and the LGC.
  - Develop an action plan, taking into consideration all of the following:
    - A short term and a long term plan for infrastructure repair, maintenance, and management.
    - Continuing education of the governing board and system operating staff.
    - Long term financial management to ensure the public water system or public wastewater system will generate sufficient revenue to adequately fund management and operations, personnel, appropriate levels of maintenance, and reinvestment that facilitate the provision of reliable water or wastewater services.
    - Any other matters identified by SWIA, the Department, or the LGC.
- Establish the Viable Utility Reserve, from which grants may be awarded to accomplish any of the following:
  - Provide physical interconnection and extension of public water or wastewater infrastructure to provide regional service.
  - Rehabilitate existing public water or wastewater infrastructure.
  - Decentralize an existing public water system or wastewater system into smaller viable parts.
  - Fund a study of rates, asset inventory and assessment, or merger and regionalization options.
  - Fund other options deemed feasible which results in local government units generating sufficient revenues to adequately fund management and operations, personnel, appropriate levels of maintenance, and reinvestment that facilitate the provision of reliable water or wastewater services.

# House Bill 777

Page 3

## ***Process to dissolve or merge public water and wastewater systems.***

Under the General Statutes, there are multiple processes by which a public water or public wastewater system may be established. Chapter 162A of the General Statutes, Water and Sewer Systems, contains several of those processes. However, there are currently no mechanisms contained within Chapter 162A of the General Statutes to allow for dissolution or merger of those systems established under that Chapter.

Effective October 1, 2019, of this section would establish a process by which a public water or public wastewater system established under Chapter 162A of the General Statutes could merge, or be dissolved, as initiated by the public water or public wastewater system.

## ***Encourage regionalism between public water and wastewater systems.***

Under the General Statutes, counties and cities are authorized to join together to execute any undertaking through an interlocal agreement. The agreement itself controls the responsibilities and duties of each county or city party to the agreement. Section 25(m) would specifically authorize interlocal agreements between local government units operating a public water system or public wastewater system.

Section 25(n) would require the DEQ to study sub-basin transfers and make recommendations as to whether the statutes, or rules, should be amended. The study is to specifically examine whether transfers of water between sub-basins 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. The results of the study are to be submitted to the Environmental Review Commission by October 1, 2019.

Section 25(o) would require the Treasurer and Secretary of State to study the issue of historical charters for municipalities that have become, or are on the brink of becoming, defunct. The results of the study are to be submitted to the General Assembly by March 1, 2020.

**PARTS I THROUGH IV** of the bill would do the following:

- Amend the current law on the purchase of omitted membership service in the Teachers' and State Employees' Retirement System (TSERS) and the Local Governmental Employees' Retirement System (LGERS).<sup>2</sup>
- Make changes to the unclaimed property statutes.<sup>3</sup>
- Require stress testing for TSERS as recommended by the Pew Foundation.<sup>4</sup>
- Make technical corrections to TSERS, LGERS, the Consolidated Judicial Retirement System (CJRS), the North Carolina National Guard Pension Fund, the North Carolina Public School Teachers' and Professional Educators' Investment Plan, and the State Health Plan.<sup>5</sup>

For a more complete explanation of these provisions, please see the summary prepared for the Senate Pensions and Retirement and Aging Committee: [Bill Summary for House Bill 777](#)

**EFFECTIVE DATE:** Except as otherwise provided, this act is effective when it becomes law.

*Erika Churchill, principal legislative analyst with the LAD, substantially contributed to this summary.*

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<sup>2</sup> Original contents of HB 777.

<sup>3</sup> Original contents found in HB 155.

<sup>4</sup> Original contents found in HB 626.

<sup>5</sup> Original contents found in HB 214.