



HOUSE BILL 455: Expedite Water/Wastewater Franchise Transfer.

2023-2024 General Assembly

Committee:	Senate Rules and Operations of the Senate	Date:	June 15, 2023
Introduced by:	Reps. Arp, Johnson, Winslow, Strickland	Prepared by:	Jennifer McGinnis
Analysis of:	Second Edition		Staff Attorney

OVERVIEW: *House Bill 455 would establish an expedited approval process for the ownership transfer of certain water or wastewater utilities by the Utilities Commission (Commission).*

CURRENT LAW: Chapter 62 (Public Utilities) requires approval of the Commission for the sale or transfer of a public utility. The Commission must approve a sale or transfer if it is justified by the public convenience and necessity.

BILL ANALYSIS:

Section 1(a) would, for applications for grants or transfers of a certificate of public convenience and necessity (CPCN) for a water or wastewater system sought as a result of a proposed sale of a privately owned water or wastewater system to a public or private entity, require the Commission to:

- Determine, within 30 days of submittal, whether an application for grant or transfer is complete. The Commission would be required to notify an applicant of any deficiencies identified in that same timeframe. If the Commission failed to take such action within 30 days, the application would be deemed complete.
- Issue an order within specified timeframes approving the grant or transfer upon finding that the proposed transfer, including adoption of existing or proposed rates for the transferring utility, is in the public interest, will not adversely affect service to the public under any existing franchise, and the person acquiring said franchise or CPCN has the technical, managerial, and financial capabilities necessary to provide public utility service to the public.
 - For grants or transfers of such systems that have an unresolved notice of violation issued by the Department of Environmental Quality within the 24 month period immediately preceding the date of application, the Commission would be required to issue the order within 210 days of the filing of a completed application.
 - For all other grants or transfers of such systems, the Commission would be required to issue the order within 300 days of the filing of a completed application.

The section would also:

- Require a proposed purchaser to have a pre-application conference with the Commission and Public Staff prior to submittal of an application, and within 90 days of entering into an offer to purchase agreement for a water or wastewater system, to clarify application requirements, information on assets that must be provided, and associated matters.
- Authorize an applicant to waive any deadline for determination of an application's completeness, or issuance of an order approving an application.

Jeffrey Hudson
Director



Legislative Analysis
Division
919-733-2578

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The requirements of this section would only be applicable to an application for grants or transfers filed on or after the date this bill would become law.

Section 1(b) would, for applications pending on the date this bill would become law for grants or transfers of a CPCN for a water or wastewater system sought as a result of a proposed sale of a privately owned water or wastewater system to a public or private entity, require the Commission to:

- Determine, within 30 days of submittal, whether an application for grant or transfer is complete. The Commission would be required to notify an applicant of any deficiencies identified in that same timeframe. If the Commission failed to take such action within 30 days, the application would be deemed complete.
- Issue an order within 180 days approving the grant or transfer upon finding that the proposed transfer, including adoption of existing or proposed rates for the transferring utility, is in the public interest, will not adversely affect service to the public under any existing franchise, and the person acquiring said franchise or CPCN has the technical, managerial, and financial capabilities necessary to provide public utility service to the public.

An applicant would be authorized to waive any deadline for determination of an application's completeness, or issuance of an order approving an application.

EFFECTIVE DATE: The bill would be effective when it becomes law.