

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2019

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HOUSE BILL 777
PROPOSED SENATE COMMITTEE SUBSTITUTE H777-PCS40490-TVxfp-37

Short Title: Various Retirement Chngs/Wastewater Reform. (Public)

Sponsors:

Referred to:

April 16, 2019

1 A BILL TO BE ENTITLED
2 AN ACT TO AMEND THE LAWS GOVERNING THE PURCHASE OF OMITTED
3 MEMBERSHIP SERVICE IN THE TEACHERS' AND STATE EMPLOYEES'
4 RETIREMENT SYSTEM AND THE LOCAL GOVERNMENTAL EMPLOYEES'
5 RETIREMENT SYSTEM; TO MAKE CHANGES TO THE UNCLAIMED PROPERTY
6 STATUTES; TO REQUIRE STRESS TESTING FOR THE TEACHERS' AND STATE
7 EMPLOYEES' RETIREMENT SYSTEM, AS RECOMMENDED BY THE PEW
8 FOUNDATION; TO MAKE TECHNICAL CORRECTIONS TO THE LAWS
9 PERTAINING TO THE TEACHERS' AND STATE EMPLOYEES' RETIREMENT
10 SYSTEM, THE LOCAL GOVERNMENTAL EMPLOYEES' RETIREMENT SYSTEM,
11 THE CONSOLIDATED JUDICIAL RETIREMENT SYSTEM, THE NORTH CAROLINA
12 NATIONAL GUARD PENSION FUND, THE NORTH CAROLINA PUBLIC SCHOOL
13 TEACHERS' AND PROFESSIONAL EDUCATORS' INVESTMENT PLAN, AND THE
14 NORTH CAROLINA STATE HEALTH PLAN FOR TEACHERS AND STATE
15 EMPLOYEES; TO IMPROVE VIABILITY OF THE WATER AND WASTEWATER
16 SYSTEMS OF CERTAIN UNITS OF LOCAL GOVERNMENT BY REQUIRING LOCAL
17 GOVERNMENT COMMISSION APPROVAL OF GRANT APPLICATIONS; TO
18 REQUIRE CERTAIN WATER AND WASTEWATER SYSTEMS TO UNDERGO A
19 REVIEW OF INFRASTRUCTURE MANAGEMENT, ORGANIZATIONAL
20 MANAGEMENT, AND FINANCIAL MANAGEMENT; TO CREATE THE VIABLE
21 UTILITY RESERVE TO PROVIDE GRANT MONEY FOR LOCAL GOVERNMENT
22 UNITS; TO PROVIDE A STATUTORY PROCESS FOR MERGER AND DISSOLUTION
23 OF WATER AND WASTEWATER SYSTEMS ESTABLISHED UNDER CHAPTER
24 162A OF THE GENERAL STATUTES; TO PROMOTE THE IMPORTANCE OF
25 INTERLOCAL AGREEMENTS TO THE OPERATION OF WATER AND
26 WASTEWATER SYSTEMS; AND TO STUDY SUB-BASIN TRANSFERS AND
27 HISTORICAL CHARTERS.

28 The General Assembly of North Carolina enacts:

29

30 **PART I. OMITTED MEMBERSHIP SERVICE**

31 **SECTION 1.(a)** G.S. 135-4(v) reads as rewritten:

32 "(v) Omitted Membership Service. – A member who had service as an employee as
33 defined in G.S. 135-1(10) and G.S. 128-21(10) or as a teacher as defined in G.S. 135-1(25) and
34 who was omitted from contributing membership through error may be allowed membership
35 service, after submitting clear and convincing evidence of the error, as follows:



- 1 (1) Within 90 days of the omission, by the payment of employee and employer
2 contributions that would have been paid; or
- 3 (2) After 90 days and prior to three years of the omission, by the payment of the
4 employee and employer contributions that would have been paid plus interest
5 compounded annually at a rate equal to the greater of the average yield on the
6 pension accumulation fund for the preceding calendar year or the actuarial
7 investment rate-of-return assumption, as adopted by the Board of Trustees; or
- 8 (3) After three years of the omission, by the payment of an amount equal to the
9 full cost of the service credits calculated on the basis of the assumptions used
10 for the purposes of the actuarial valuation of the system's liabilities, and shall
11 take into account the additional retirement allowance arising on account of
12 such additional service credit commencing at the earliest age at which a
13 member could retire on an unreduced retirement allowance, as determined by
14 the Board of Trustees upon the advice of the consulting actuary, plus an
15 administrative fee to be set by the Board of Trustees. Notwithstanding the
16 foregoing provisions of this subdivision that provide for the purchase of
17 service credits, the terms "full cost", "full liability", and "full actuarial cost"
18 include assumed annual post-retirement allowance increases, as determined
19 by the Board of Trustees, from the earliest age at which a member could retire
20 on an unreduced service allowance.

21 Nothing contained in this subsection shall prevent an employer or member from paying all
22 or a part of the cost of the omitted membership service; and to the extent paid by the employer,
23 the cost paid by the employer shall be credited to the pension accumulation fund; and to the
24 extent paid by the member, the cost paid by the members shall be credited to the member's
25 annuity savings account; provided, however, an employer does not discriminate against any
26 member or group of members in his employ in paying all or any part of the cost of the omitted
27 membership service. Upon request from an employee, an employer shall provide written
28 notification of the total hours worked in the preceding 12 months to an employee in a position
29 classified as part-time. An employer shall provide a copy of the notification to the Retirement
30 Systems Division upon request. In the event that an employee was classified as part-time in error
31 and was not eligible to earn membership service due to that error, and the employee has paid a
32 lump sum equal to the applicable employee contributions as set forth in subdivision (2) of this
33 subsection within one year of the omission, the employer shall be required to pay the applicable
34 employer contributions as set forth in subdivision (2) of this section."

35 **SECTION 1.(b)** G.S. 128-26(m) reads as rewritten:

36 "(m) Omitted Membership Service. – A member who had service as an employee as
37 defined in G.S. 135-1(10) and G.S. 128-21(10) or as a teacher as defined in G.S. 135-1(25) and
38 who was omitted from contributing membership through error may be allowed membership
39 service, after submitting clear and convincing evidence of the error, as follows:

- 40 (1) within 90 days of the omission, by the payment of employee and employer
41 contributions that would have been paid; or
- 42 (2) after 90 days and prior to three years of the omission, by the payment of the
43 employee and employer contributions that would have been paid plus interest
44 compounded annually at a rate equal to the greater of the average yield on the
45 pension accumulation fund for the preceding calendar year or the actuarial
46 investment rate-of-return assumption, as adopted by the Board of Trustees; or
- 47 (3) after three years of the omission, by the payment of an amount equal to the
48 full cost of the service credits calculated on the basis of the assumptions used
49 for the purposes of the actuarial valuation of the System's liabilities, and shall
50 take into account the additional retirement allowance arising on account of
51 such additional service credit commencing at the earliest age at which a

1 member could retire on an unreduced retirement allowance, as determined by
2 the Board of Trustees upon the advice of the consulting actuary, plus an
3 administrative fee to be set by the Board of Trustees. Notwithstanding the
4 foregoing provisions of this subdivision that provide for the purchase of
5 service credits, the terms "full cost", "full liability", and "full actuarial cost"
6 include assumed annual post-retirement allowance increases, as determined
7 by the Board of Trustees, from the earliest age at which a member could retire
8 on an unreduced service allowance.

9 Nothing contained in this subsection shall prevent an employer or member from paying all
10 or a part of the cost of the omitted membership service; and to the extent paid by the employer,
11 the cost paid by the employer shall be credited to the pension accumulation fund; and to the
12 extent paid by the member, the cost paid by the members shall be credited to the member's
13 annuity savings account; provided, however, an employer does not discriminate against any
14 member or group of members in his employ in paying all or any part of the cost of the omitted
15 membership service. In the event an employer pays all or a part of the full actuarial cost as
16 determined in subdivision (3) of this subsection, the employer may, at its option, pay such amount
17 either in a lump sum or by increasing its "accrued liability contribution" for the remainder of its
18 accrued liability period. In the event an employer has satisfied its accrued liability contribution,
19 the employer may amortize its portion of the full actuarial cost over a period not to exceed ten
20 years. The expense of making an actuarial valuation to determine the accrued liability
21 contribution or the additional accrued liability contribution, required to amortize the portion of
22 the full actuarial cost paid by the employer, shall be paid by the employer in a lump sum at the
23 time of the actuarial valuation. Upon request from an employee, an employer shall provide
24 written notification of the total hours worked in the preceding 12 months to an employee in a
25 position classified as part-time. An employer shall provide a copy of the notification to the
26 Retirement Systems Division upon request. In the event that an employee was classified as
27 part-time in error and was not eligible to earn membership service due to that error, and the
28 employee has paid a lump sum equal to the applicable employee contributions as set forth in
29 subdivision (2) of this subsection within one year of the omission, the employer shall be required
30 to pay the applicable employer contributions as set forth in subdivision (2) of this subsection."

31 **SECTION 1.(c)** This section becomes effective January 1, 2021, and applies to the
32 purchase of service for work performed on or after January 1, 2020.
33

34 **PART II. UNCLAIMED REAL AND PERSONAL PROPERTY**

35 **SECTION 2.(a)** The title of Article 1 of Chapter 116B of the General Statutes is
36 renamed to be "General."

37 **SECTION 2.(b)** G.S. 116B-1 is recodified as G.S. 116B-2.1.

38 **SECTION 2.(c)** G.S. 116B-2 is recodified as G.S. 116B-2.2.

39 **SECTION 2.(d)** G.S. 116B-2.1, as recodified by subsection (b) of this section,
40 through G.S. 116B-8, are recodified into a new Article 1A of Chapter 116B of the General
41 Statutes to be named "Escheats."

42 **SECTION 2.(e)** G.S. 116B-2.2, as recodified by subsection (c) of this section, reads
43 as rewritten:

44 **"§ 116B-2.2. Unclaimed real and personal property escheats to the Escheat Fund.**

45 Whenever the owner of any real or personal property situated or located within this State dies
46 intestate, or dies testate but did not dispose of all real or personal property by will, without leaving
47 surviving any heirs, as defined in G.S. 29-2(3), to inherit said property under the laws of this
48 State, such real and personal property shall escheat. The State Treasurer shall have the right to
49 institute a civil action in the superior court of any county in which such real or personal property
50 is situated, against any administrator, executor, and unknown heirs or unknown claimants as
51 party defendants, which unknown heirs or unknown claimants may be served with summons and

1 notice of such action by publication as is now provided by the laws of this State. If an
2 administrator or executor has been appointed, he shall make a determination that there are no
3 known heirs or unknown claimants and shall inform the State Treasurer of that determination.
4 The superior court in which such civil action is instituted shall have the authority to enter a
5 judgment therein declaring the real and personal property unclaimed as having escheated, and
6 the real property may be sold according to the provisions of ~~G.S. 116B-1~~, G.S. 116-2.1. A default
7 final judgment may be entered by the clerk of the superior court in such cases when no answer is
8 filed by the administrator, executor, unknown heirs or unknown claimants to the complaint, or if
9 any answer is filed, the allegations of the complaint are either admitted or not denied by such
10 party defendants, and no claim is made in the answer to the property left by said deceased person.
11 The funds derived from such sale shall be paid into the Escheat Fund where said funds, together
12 with all other escheated funds, shall be held without liability for profit or interest, subject to any
13 just claims therefor."

14 **SECTION 2.(f)** G.S. 116B-3 reads as rewritten:

15 "**§ 116B-3. Unclaimed personalty on settlements of decedents' estates to the Escheat Fund.**

16 All sums of money or other personal estate of whatever kind which shall remain in the hands
17 of any administrator, executor, administrator c.t.a., or personal representative when the
18 administration of an estate of a person dying intestate, or partially intestate, without leaving any
19 known heirs to inherit same, is ready to be closed, unrecovered or unclaimed by suit, by creditors,
20 heirs, or others entitled thereto, shall, prior to the closing of the administration of the estate, be
21 paid or delivered by such administrator or executor to the State Treasurer as an escheat and shall
22 be included in the disbursements in the final account of such estate. In such cases as above
23 described, the State Treasurer is authorized to demand, sue for, recover, and collect such
24 unclaimed moneys or other personal estate of whatever kind from any administrator or executor
25 after the estate is ready to be closed, or from the clerk of the superior court if the unclaimed assets
26 have been paid over to him, and the State Treasurer shall hold the same without liability for profit
27 or interest, subject to any just claims therefor. The provisions of this section and ~~G.S. 116B-2~~
28 G.S. 116B-2.2 shall apply to the estate of a person missing for 30 days or more and the State
29 Treasurer may bring an action to have a receiver appointed in such case under the provisions of
30 Chapter 28C, Estates of Missing Persons."

31 **SECTION 2.(g)** G.S. 29-12 reads as rewritten:

32 "**§ 29-12. Escheats.**

33 If there is no person entitled to take under G.S. 29-14 or G.S. 29-15, or if in case of an
34 intestate born out of wedlock, there is no one entitled to take under G.S. 29-21 or G.S. 29-22, the
35 net estate shall escheat as provided in ~~G.S. 116B-2~~, G.S. 116B-2.2."

36 **SECTION 3.** Article 1 of Chapter 116B of the General Statutes is amended by adding
37 a new section to read:

38 "**§ 116B-1.1. Policy and interpretation.**

39 The policy of the State is to recover and transfer property to rightful owners in a manner that
40 is consistent with the interest of the rightful owners. Where the rightful owner cannot be
41 appropriately determined, it is the policy of the State that all benefits realized from any unclaimed
42 or abandoned property shall accrue to the benefit of higher education for the residents of the
43 State. This Chapter shall be liberally interpreted in a manner that fulfills these purposes."

44 **SECTION 4.** G.S. 116B-64 reads as rewritten:

45 "**§ 116B-64. ~~Income Loss, income, or gain accruing after payment or delivery.~~**

46 If property other than money is delivered to the Treasurer under this Chapter, the owner is
47 entitled to receive from the Treasurer any income or gain realized or accruing on the property at
48 or before liquidation or conversion of the property into money. If the property is interest-bearing
49 or pays dividends, the interest or dividends shall be paid until the date on which the amount of
50 the deposits, accounts, or funds, or the shares must be remitted or delivered to the Treasurer under

1 G.S. 116B-61. Otherwise, when property is delivered or paid to the Treasurer, the Treasurer shall
2 hold the property without liability for ~~income loss, income, or gain.~~"

3 **SECTION 5.** G.S. 116B-75(b) reads as rewritten:

4 "(b) The Treasurer may order a person required to report, pay, or deliver property under
5 this Chapter, or an officer or employee of the person, or a person having possession, custody,
6 care, or control of records relevant to the matter under inquiry, or any other person having
7 knowledge of the property or records, to (i) appear before the Treasurer, at a time and place
8 named in the order, ~~and to (ii) produce the records and to reports and records, (iii) make the~~
9 ~~required payments, (iv) make the required delivery of property, and (v) give such testimony under~~
10 oath or affirmation relevant to the inquiry. For purposes of this subsection, the Treasurer may
11 administer oaths or affirmations. If a person refuses to obey an order of the Treasurer, the
12 Treasurer may apply to the Superior Court of Wake County for an order requiring the person to
13 obey the order of the Treasurer. Failure to comply with the court order is punishable for
14 contempt."

15 **SECTION 6.(a)** G.S. 116B-60(a) reads as rewritten:

16 "(a) A holder of property presumed abandoned shall ~~make file~~ a report ~~to in an electronic~~
17 ~~format prescribed by the~~ Treasurer concerning the property. ~~Holders reporting 50 or more~~
18 ~~property owner records shall file the report in an electronic format prescribed by the Treasurer.~~
19 ~~Holders reporting less than 50 property owner records may file the report electronically. Holders~~
20 ~~reporting electronically may shall~~ file an electronic certification and verification in order to
21 comply with subsection (f) of this section."

22 **SECTION 6.(b)** This section is effective January 1, 2020, and applies to reports filed
23 on or after that date.

24 **SECTION 7.** G.S. 116B-60(b1) reads as rewritten:

25 "(b1) ~~Amounts—~~With the exception of property subject to G.S. 116B-53(c)(4),
26 116B-53(c)(5), and 116B-53(c)(5a), amounts due an apparent owner less than fifty dollars
27 (\$50.00) may be reported in an aggregate amount without furnishing any of the information
28 required by subsection (b) of this section."

29 **SECTION 8.(a)** G.S. 116B-63 reads as rewritten:

30 **"§ 116B-63. Custody by State; recovery by holder; defense of holder.**

31 (a) In this section, payment or delivery is made in "good faith" ~~if~~ if all of the following
32 apply:

- 33 (1) Payment or delivery was made in a reasonable attempt to comply with this
34 ~~Chapter;~~Chapter.
- 35 (2) The holder was not then in breach of a fiduciary obligation with respect to the
36 property and had a reasonable basis for believing, based on the facts then
37 known, that the property was presumed ~~abandoned;~~ and abandoned.
- 38 (3) There is no showing that the records under which the payment or delivery was
39 made did not meet reasonable commercial standards of practice.

40 (b) Upon payment or delivery of property to the Treasurer, the State assumes custody and
41 responsibility for the safekeeping of the property. A holder who pays or delivers property to the
42 Treasurer in good faith is relieved of all liability arising thereafter with respect to the property.

43 (c) A holder who has paid money to the Treasurer pursuant to this Chapter may
44 subsequently make payment to a person reasonably appearing to the holder to be entitled to
45 payment. Upon a filing with the Treasurer by the holder on a form prescribed by the Treasurer
46 of proof of payment and proof that the payee was entitled to the payment, the Treasurer shall
47 promptly reimburse the holder for the payment without imposing a fee or other charge. If
48 reimbursement is sought for a payment made on a negotiable instrument, including a traveler's
49 check or money order, the holder must be reimbursed upon filing proof with the Treasurer that
50 the instrument was duly presented and that payment was made to a person who reasonably

1 appeared to be entitled to payment. The holder must be reimbursed for payment made even if the
2 payment was made to a person whose claim was barred under G.S. 116B-71(a).

3 (d) A holder who has delivered property other than money to the Treasurer pursuant to
4 this Chapter may reclaim the property if it is still in the possession of the Treasurer, without
5 paying any fee or other charge, upon filing proof that the apparent owner has claimed the property
6 from the holder.

7 (d1) A holder who has in good faith paid or delivered property to the Treasurer in error
8 may request a refund from the Treasurer. Upon a filing with the Treasurer by the holder of proof
9 of the error on a form prescribed by the Treasurer, the Treasurer may refund the holder.

10 (e) The Treasurer may accept a holder's affidavit as sufficient proof of the holder's right
11 to recover money and property under this section.

12 (f) If a holder pays or delivers property to the Treasurer in good faith and thereafter
13 another person claims the property from the holder or another state claims the money or property
14 under its laws relating to escheat or abandoned or unclaimed property, the Treasurer, upon written
15 notice of the claim, shall defend the holder against the claim and indemnify the holder against
16 any liability on the claim resulting from payment or delivery of the property to the Treasurer."

17 **SECTION 8.(b)** This section is effective when it becomes law and applies to filings
18 made on or after that date.

19
20 **PART III. REQUIRE STRESS TESTING OF THE RETIREMENT SYSTEM AS**
21 **RECOMMENDED BY THE PEW FOUNDATION**

22 **SECTION 9.(a)** G.S. 135-6(n) reads as rewritten:

23 "(n) In 1943, and at least once in each five-year period thereafter, the actuary shall ~~make~~
24 complete an actuarial investigation into experience review of the mortality, service and
25 compensation experience of the members and beneficiaries of the Retirement System, and shall
26 make a valuation of the assets and liabilities of the funds of the System, and taking into account
27 the result of such investigation and valuation, the Board of Trustees ~~shall~~shall do all of the
28 following:

- 29 (1) Adopt for the Retirement System such mortality, service and other tables as
30 shall be deemed ~~necessary; and~~necessary.
31 (2) Certify the rates of contributions payable by the State of North Carolina on
32 account of new entrants at various ages."

33 **SECTION 9.(b)** G.S. 135-6 is amended by adding two new subsections to read:

34 "(n1) Prior to undertaking each quinquennial actuarial experience review, as required by
35 this section, the Board of Trustees shall provide the General Assembly and the Governor a report
36 that includes all of the following, as these items apply to the Retirement System:

- 37 (1) A description of, and the process used to determine, the investment return
38 assumption utilized by the Board of Trustees when determining the
39 contribution rates.
40 (1a) An estimate of the range of likely employer contributions over 20 years based
41 on analysis that simulates the volatility of annual investment returns above
42 and below the expected rate, applying methodology determined by the
43 actuary.
44 (2) Projections of assets, liabilities, pension debt, service costs, employee
45 contributions, employer contributions, net amortization, benefit payments,
46 payroll, and funded ratio for the Retirement System for each of the next 30
47 years based upon the then-current actuarial assumptions, including the
48 assumed rate of return.
49 (3) Projections of assets, liabilities, pension debt, service costs, employee
50 contributions, employer contributions, net amortization, benefit payments,
51 payroll, and funded ratio for the Retirement System assuming that investment

- 1 returns are two and four percentage points lower than the assumed rate of
2 return and that the State makes employer contributions meeting all of the
3 following:
- 4 a. The contributions are based upon the then-current funding policy for
5 the Retirement System.
- 6 b. The contributions are held constant at the levels calculated for
7 subdivision (2) of this subsection.
- 8 c. The contributions never exceed fifteen percent (15%) of projected total
9 revenue available for appropriation by the General Assembly.
- 10 (4) Estimates for assets, liabilities, pension debt, service costs, employee
11 contributions, employer contributions, net amortization, benefit payments,
12 payroll, and funded ratio for the Retirement System, if there is a one-year loss
13 on planned investments of twenty percent (20%) followed by a 20-year period
14 of investment returns two percentage points below plan assumptions, with the
15 following assumptions regarding contributions:
- 16 a. The contributions are based upon the then-current funding policy for
17 the Retirement System.
- 18 b. The contributions are held constant at the levels calculated for
19 subdivision (2) of this subsection.
- 20 c. The contributions never exceed fifteen percent (15%) of projected total
21 revenue available for appropriation by the General Assembly.
- 22 (5) The estimated actuarially accrued liability, the total plan normal cost for all
23 benefit tiers if multiple tiers exist, and the employer normal cost for all benefit
24 tiers if multiple tiers exist, calculated using all of the following:
- 25 a. A discount rate equal to the assumed rate of return. If the discount rate
26 used by the Retirement System is different from the investment return
27 assumption, then the report shall provide a calculation of actuarially
28 accrued liability based upon a discount rate that is two percent (2%)
29 and four percent (4%) above and below the long-term rate of return
30 actually used by the Board of Trustees.
- 31 b. The 10-year average of the yield of 30-year treasury notes.
- 32 (6) A description of the amortization period for any unfunded liabilities utilized
33 by the Board of Trustees when determining the contribution rates.
- 34 (7) A calculation of the contribution rates based on an amortization period equal
35 to the estimated average remaining service periods of employees covered by
36 the contributions.
- 37 (8) A description of the interest assumption rate utilized by the Board of Trustees
38 for reporting liabilities and the process used to determine that assumption.
- 39 (9) The market value of the assets controlled by the Board of Trustees and an
40 explanation of how the actuarial value assigned to those assets differs from
41 the market value of those assets.
- 42 (10) An assessment of how the changes of assumptions adopted by the Board of
43 Trustees in the experience review affect any of the other results in the report.
- 44 (11) Any additional information deemed useful by the Board of Trustees or the
45 Investment Advisory Committee under G.S. 147-69.2 to evaluate or adjust the
46 investment policy statement or to evaluate adherence to or risk associated with
47 statutory constraints on investments.
- 48 (12) Any additional information deemed useful by the Board to evaluate current or
49 prospective funding or contribution policies.
- 50 (n2) With regards to payment for the administration of subsections (n), (n1), and (o) of this
51 section, the Retirement Systems Division of the Department of State Treasurer may increase

1 receipts from the retirement assets of the corresponding retirement system or may pay the costs
2 directly from the retirement assets."

4 PART IV. TECHNICAL CHANGES

5 SECTION 10.(a) G.S. 135-48.8(a) reads as rewritten:

6 "(a) The State of North Carolina deems it to be in the public interest for individual North
7 Carolina firefighters, rescue squad workers, and members of the National Guard, and certain of
8 their dependents, who are not eligible for any other type of comprehensive ~~group~~ health insurance
9 or other comprehensive ~~group~~ health benefits, and who have been without any form of ~~group~~
10 health insurance or other comprehensive ~~group~~ health benefit coverage for at least six
11 consecutive months, to be given the opportunity to participate in the benefits provided by the
12 State Health Plan for Teachers and State Employees. Coverage under the Plan shall be voluntary
13 for eligible firefighters, rescue squad workers, and members of the National Guard who elect
14 participation in the Plan for themselves and their eligible dependents."

15 SECTION 10.(b) G.S. 135-48.40(d)(13) reads as rewritten:

16 "(13) The following persons, their eligible spouses, and eligible dependent children,
17 provided that the person seeking coverage as a subscriber (i) is not eligible for
18 another comprehensive ~~group~~ health benefit plan and (ii) has been without
19 coverage under a comprehensive ~~group~~ health benefit plan for at least six
20 consecutive months:

- 21 a. Firefighters.
- 22 b. Rescue squad workers.
- 23 c. Persons receiving a pension from the North Carolina Firefighters' and
24 Rescue Squad Workers' Pension Fund.
- 25 d. Members of the North Carolina National Guard.
- 26 e. Retirees of the North Carolina National Guard with 20 years of
27 service.

28 For the purposes of this subdivision, Medicare benefits, Civilian Health and
29 Medical Program of the Uniformed Services (CHAMPUS) benefits, and other
30 Uniformed Services benefits shall be considered comprehensive ~~group~~ health
31 benefit plans. The Plan may require certification of persons seeking coverage
32 under this subdivision. Nothing in this section shall be construed to either (i)
33 permit a person to enroll or (ii) require the Plan to enroll a person in the Plan
34 when that enrollment may jeopardize the Plan's preferential tax exempt status
35 as a governmental plan under the Internal Revenue Code."

36 SECTION 11. G.S. 135-66 reads as rewritten:

37 "**§ 135-66. Administration; management of ~~funds~~.funds; method of financing.**

38 (a) The State Treasurer shall be the custodian of the assets of this Retirement System and
39 shall invest them in accordance with the provisions of G.S. 147-69.2 and ~~147-69.3~~.G.S. 147.69.3.

40 (b) The assets of this Retirement System shall include employers' contributions held with
41 the Pension Accumulation Fund established under G.S. 135-8 and employees' contributions held
42 in the Annuity Savings Fund similarly established under G.S. 135-8.

43 (c) The Board of Trustees shall have performed an annual actuarial valuation of the
44 System and shall have the financial responsibility for maintaining the System on a generally
45 accepted actuarial basis.

46 (d) An actuarially determined employer contribution shall be calculated annually by the
47 actuary using assumptions and a cost method approved by the Actuarial Standards Board of the
48 American Academy of Actuaries and selected by the Board of Trustees.

49 (e) Notwithstanding Chapter 150B of the General Statutes, the Board of Trustees may
50 adopt a contribution policy that would recommend a contribution not less than the actuarially
51 determined employer contribution.

1 (f) The recommended employer contribution rate by the Board of Trustees each year
2 shall not be less than the actuarially determined employer contribution."

3 **SECTION 12.(a)** G.S. 127A-40(f) reads as rewritten:

4 (f) The Board of Trustees of the Teachers' and State Employees' Retirement System shall
5 administer the provisions of this section. The Secretary of Public Safety shall determine the
6 eligibility of North Carolina National Guard members for the benefits provided in this section
7 and shall certify those eligible to the Board of Trustees. In addition, the Department of Public
8 Safety shall, on and after July 1, 1983, provide the Board of Trustees with an annual census
9 population, by age and the number of years of creditable service, for all former members of the
10 North Carolina National Guard in receipt of a pension as well as for all active members of the
11 North Carolina National Guard who are not in receipt of a pension and who have seven and more
12 years of creditable service. The Department of Public Safety shall also provide the Board of
13 Trustees an annual census population of all former members of the North Carolina National
14 Guard who are not in receipt of a pension and who have 15 and more years of creditable service.
15 The Department of State Treasurer shall make pension payments to those persons certified from
16 the North Carolina National Guard Pension Fund, ~~which shall include general fund~~
17 ~~appropriations made to the Department of State Treasurer. The Board of Trustees shall have~~
18 ~~performed an annual actuarial valuation of the fund and shall have the financial responsibility for~~
19 ~~maintaining the fund on a generally accepted actuarial basis. The Department of Public Safety~~
20 ~~shall provide the Department of State Treasurer with whatever assistance is required by the State~~
21 ~~Treasurer in carrying out the State Treasurer's and the Board of Trustees' financial~~
22 ~~responsibilities.Fund."~~

23 **SECTION 12.(b)** Article 3 of Chapter 127A of the General Statutes is amended by
24 adding a new section to read:

25 **"§ 127A-40.1. North Carolina National Guard Pension Fund.**

26 (a) As used in this section, the term "Board of Trustees" means the Board of Trustees of
27 the Teachers' and State Employees' Retirement System.

28 (b) The North Carolina National Guard Pension Fund shall include general fund
29 appropriations made to the Department of State Treasurer and held with the Pension
30 Accumulation Fund of the Teachers' and State Employees' Retirement System.

31 (c) The Board of Trustees shall have performed an annual actuarial valuation of the Fund
32 and shall have the financial responsibility for maintaining the Fund on a generally accepted
33 actuarial basis.

34 (d) An actuarially determined employer contribution shall be calculated annually by the
35 actuary using assumptions and a cost method approved by the Actuarial Standards Board of the
36 American Academy of Actuaries and selected by the Board of Trustees.

37 (e) Notwithstanding Chapter 150B of the General Statutes, the Board of Trustees may
38 adopt a contribution policy that would recommend a contribution not less than the actuarially
39 determined employer contribution.

40 (f) The recommended employer contribution rate by the Board of Trustees each year
41 shall not be less than the actuarially determined employer contribution.

42 (g) The Department of Public Safety shall provide the Department of State Treasurer with
43 any assistance required by the State Treasurer in carrying out the financial responsibilities of the
44 State Treasurer or the Board of Trustees."

45 **SECTION 13.(a)** G.S. 135-8 is amended by adding a new subsection to read:

46 (f1) Felony Forfeiture Impact on Contribution-Based Benefit Cap. – If an employer made
47 contributions on account of a retiree subject to the contribution-based benefit cap under
48 G.S. 135-8(f)(2)f. and that retiree later forfeits retirement benefits under G.S. 128-38.4,
49 128-38.3A, 135-18.10A, 135-18.30, 135-75.1, or 135-75.1A, then the Retirement Systems
50 Division may provide a credit to the employer. This credit shall be calculated in an amount
51 reflecting the impact of the forfeiture on the amount due under G.S. 135-4(jj)."

1 **SECTION 13.(b)** G.S. 128-30 is amended by adding a new subsection to read:
2 "(g1) Felony Forfeiture Impact on Contribution-Based Benefit Cap. – If an employer made
3 contributions on account of a retiree subject to the contribution-based benefit cap under
4 G.S. 135-8(f)(2)f. and that retiree later forfeits retirement benefits under G.S. 128-38.4,
5 128-38.3A, 135-18.10A, 135-18.30, 135-75.1, or 135-75.1A, then the Retirement Systems
6 Division may provide a credit to the employer. This credit shall be calculated in an amount
7 reflecting the impact of the forfeiture on the amount due under G.S. 128-26(y)."

8 **SECTION 14.(a)** Article 1 of Chapter 135 of the General Statutes is amended by
9 adding a new section to read:

10 **"§ 135-5.5. Inactive employers.**

11 (a) An employer shall be considered an inactive employer if all of the following criteria
12 are met:

- 13 (1) The employer has no employees that qualify for membership in any System
14 under this Chapter.
- 15 (2) The employer has made no employer contributions for at least one month.
- 16 (3) The employer makes a request in writing to the Retirement Systems Division
17 of the Department of State Treasurer to be made inactive.
- 18 (4) The Retirement Systems Division of the State Treasurer has reviewed the
19 employer request to become inactive and has granted that request. The
20 Retirement Systems Division shall provide written notification to the
21 requesting employer of any decisions made under this section.

22 (b) Not later than April 30 of each calendar year, the Retirement Systems Division of the
23 Department of State Treasurer shall make a report to the Board on all employers who were
24 determined to be inactive employers in that preceding calendar year."

25 **SECTION 14.(b)** Article 3 of Chapter 128 of the General Statutes is amended by
26 adding a new section to read:

27 **"§ 128-23.1. Inactive employers.**

28 (a) An employer shall be considered an inactive employer if all of the following criteria
29 are met:

- 30 (1) The employer has no employees that qualify for membership in the Retirement
31 System.
- 32 (2) The employer has made no employer contributions for at least one month.
- 33 (3) The employer makes a request in writing to the Retirement Systems Division
34 of the Department of State Treasurer to be made inactive.
- 35 (4) The Retirement Systems Division of the State Treasurer has reviewed the
36 employer request to become inactive and has granted that request. The
37 Retirement Systems Division shall provide written notification to the
38 requesting employer of any decisions made under this section.

39 (b) Not later than April 30 of each calendar year, the Retirement Systems Division of the
40 Department of State Treasurer shall make a report to the Board on all employers who were
41 determined to be inactive employers in that preceding calendar year."

42 **SECTION 15.(a)** G.S. 159-33.1 reads as rewritten:

43 **"§ 159-33.1. Semiannual reports of financial information.**

44 The finance officer of each unit and public authority shall submit to the secretary on January
45 1 and July 1 of each year ~~(or such year, or other dates as the secretary may prescribe)~~ prescribe,
46 a statement of financial information concerning the unit or public authority. The secretary may
47 prescribe the information to be included in the statement and may prescribe the form of the
48 statement; provided, however, the secretary shall prescribe that the finance officer of each city
49 and county shall include in the statement the total revenues received from building inspections,
50 by ~~type, source,~~ and the total expenditures paid from all revenues received, by ~~type-object.~~"

51 **SECTION 15.(b)** This section is effective June 30, 2019.

1 **SECTION 16.** G.S. 135-18.1(a) reads as rewritten:

2 ~~"(a) Any person who is a member of the Teachers' and State Employees' Retirement~~
3 ~~System of North Carolina on July 1, 1951, and who was previously a member of the North~~
4 ~~Carolina Governmental Employees' Retirement System, hereafter in this section referred to as~~
5 ~~the local system, shall be entitled to transfer to this Retirement System his credits for membership~~
6 ~~and prior service in the local system as of the date of termination of membership in the local~~
7 ~~system, notwithstanding that his membership in the local system may have been terminated prior~~
8 ~~to July 1, 1951: Provided, such member shall deposit in this Retirement System prior to January~~
9 ~~1, 1952, the full amount of any accumulated contributions standing to his credit in, or previously~~
10 ~~withdrawn from, the local system and shall apply to the Board of Trustees of this Retirement~~
11 ~~System for a transfer of credit from the local system. Any~~
12 ~~was a member of the North Carolina Governmental Employees' Retirement System and who~~
13 ~~becomes a member of this Retirement System on or after July 1, 1951, shall be entitled prior to~~
14 ~~his retirement to transfer to this Retirement System his or her credits for membership and prior~~
15 ~~service in the local system: Provided, the actual transfer of employment is made while his account~~
16 ~~in the local system is active and such person shall request the local system to transfer his~~
17 ~~accumulated contributions, interest, and service credits to this Retirement System; provided~~
18 ~~further, with respect to any person who becomes a member of this Retirement System after July~~
19 ~~1, 1969, the local system agrees to transfer to this Retirement System the amount of reserve held~~
20 ~~in the local system as a result of previous contributions of the employer on behalf of the~~
21 ~~transferring employee. For the purposes of this section, the term "local system" means the North~~
22 ~~Carolina Governmental Employees' Retirement System."~~

23 **SECTION 17.(a)** G.S. 135-5.2 is repealed.

24 **SECTION 17.(b)** G.S. 135-13 is repealed.

25 **SECTION 17.(c)** G.S. 135-14 is repealed.

26 **SECTION 17.(d)** G.S. 135-14.1 is repealed.

27 **SECTION 17.(e)** G.S. 135-16 is repealed.

28 **SECTION 17.(f)** G.S. 135-18.3 is repealed.

29 **SECTION 17.(g)** G.S. 135-18.5 is repealed.

30 **SECTION 18.** G.S. 135-16.1 reads as rewritten:

31 **"§ 135-16.1. Blind or visually impaired employees, vendors.**

32 ~~(a) On July 1, 1971, all blind or visually impaired employees employed by the~~
33 ~~Department of Health and Human Services shall be enrolled as members of the Teachers' and~~
34 ~~State Employees' Retirement System. All such employees shall be given full credit for all service~~
35 ~~theretofore as employees of the Department of Health and Human Services. All retired employees~~
36 ~~drawing or receiving benefits from and under the private retirement plan purportedly created on~~
37 ~~December 6, 1966, by the Bureau of Employment for the Blind Division pursuant to a trust~~
38 ~~agreement purportedly entered into with a private banking institution as trustee shall continue to~~
39 ~~be paid by the Teachers' and State Employees' Retirement System benefits in the same amount~~
40 ~~which they purportedly were entitled to under the private retirement plan and trust agreement,~~
41 ~~except that such retired persons shall be eligible for such annual cost of living increases as may~~
42 ~~be provided for retirement members of the Teachers' and State Employees' Retirement System~~
43 ~~under the provisions of this Article.~~

44 ~~(b) Upon the enrollment of the employees in the Teachers' and State Employees'~~
45 ~~Retirement System, the purported private retirement plan and trust agreement hereinabove~~
46 ~~referred to shall be dissolved and terminated.~~

47 ~~(c) Notwithstanding the foregoing, blind persons~~
48 ~~operating vending facilities under contract with the Department of Health and Human Services,~~
49 ~~Division of Services for the Blind and its successors, hereinafter referred to as licensed vendors,~~
50 ~~so who are licensed on and after October 1, 1983, shall not be members of the Retirement System.~~

1 All licensed vendors in service or who are members of the Retirement System before October 1,
2 1983, shall make an irrevocable election to do one of the following:

- 3 (1) Continue contributing membership service as if an employee under the same
4 conditions and requirements as are otherwise provided, and have the rights of
5 a member to all benefits and a retirement allowance;
- 6 (2) Receive a return of accumulated contributions with cessation of contributing
7 membership service, under G.S. 135-5(f), and in any event with regular
8 interest regardless of membership service; or
- 9 (3) Terminate contributing membership service and be entitled alternatively to the
10 benefits and allowances provided under G.S. 135-3(8) or 135-5(a)."

11 **SECTION 19.** G.S. 128-23(b) reads as rewritten:

12 "(b) Pursuant to the favorable vote of a majority of the employees of the county, the board
13 of commissioners of any county may, by resolution legally adopted and approved by the Board
14 of Trustees, elect to have its employees become eligible to participate in the Retirement System.
15 Each county is authorized to make appropriations for these purposes and to fund them by levy of
16 property taxes pursuant to G.S. 153-65 as authorized by Article 7 of Chapter 153A of the General
17 Statutes and by the allocation of other revenues whose use is not otherwise restricted by law."

18 **SECTION 20.** G.S. 115D-25.4 is amended by adding a new subsection to read:

19 "(c) The administrative costs of the North Carolina Public School Teachers' and
20 Professional Educators' Investment Plan may be charged to members or deducted from members'
21 accounts in accordance with nondiscriminatory procedures established by the Department of
22 State Treasurer and Board of Trustees."

23 **SECTION 21.(a)** G.S. 135-6.1 is amended by adding a new subsection to read:

24 "(e1) The Retirement Systems Division of the Department of State Treasurer may disclose
25 to employers and former employers that made a contribution for an employee or former employee
26 to the Retirement System any information that is not public under this Section regarding that
27 employee necessary to conduct the business of the Retirement System. Employers and former
28 employers in receipt of this information shall treat the information as confidential and this
29 information shall not be a public record."

30 **SECTION 21.(b)** G.S. 135-8(f)(2)f. reads as rewritten:

31 "f. Each employer shall transmit to the Retirement System on account of
32 each member who retires on or after January 1, 2015, having earned
33 his or her last month of membership service as an employee of that
34 employer the lump sum payment, as calculated under G.S. 135-4(jj)
35 for inclusion in the Pension Accumulation Fund, that would have been
36 necessary in order for the retirement system to restore the member's
37 retirement allowance to the pre cap amount. Employers are not
38 required to make contributions on account of any retiree who became
39 a member on or after January 1, 2015, and who earned at least five
40 years of membership service in the Retirement System after January
41 1, 2015. The retirement allowance of a member with a final average
42 compensation of more than one hundred thousand dollars (\$100,000),
43 as hereinafter indexed, shall not be subject to the contribution based
44 benefit cap if the compensation was earned from multiple
45 simultaneous employers, unless an employer's share of the average
46 final compensation exceeds one hundred thousand dollars (\$100,000).
47 An employer is not required to make contributions on account of any
48 retiree whose final average compensation exceeds one hundred
49 thousand dollars (\$100,000), as hereinafter indexed, based upon
50 compensation earned from multiple simultaneous employers, unless
51 that employer's share of the average final compensation exceeds one

1 hundred thousand dollars (\$100,000), as provided and indexed under
2 G.S. 135 5(a3).

3 Under such rules as the Board of Trustees shall adopt, the
4 Retirement System shall report monthly to each employer a list of
5 those members for whom the employer made a contribution to the
6 Retirement System in the preceding month that are most likely to
7 require an additional employer contribution should they elect to retire
8 in the following 12 months, if applicable. Reports received under this
9 section shall not be public records. Employers or former employers in
10 receipt of a report under this section shall treat the report, and the
11 information contained within that report, as confidential and as though
12 it were still held by the Retirement System under G.S. 135-6.1."

13 **SECTION 21.(c)** G.S. 135-8(j) reads as rewritten:

14 "(j) Pension Spiking Report. – Upon receipt of a report from the Retirement System
15 generated pursuant to G.S. 135-8(f)(2)f., containing a list of employees for whom the employer
16 made a contribution to the North Carolina Teachers' and State Employees' Retirement System
17 that is likely to require an additional employer contribution should the employee elect to retire in
18 the following 12 months, the employer's chief financial officer shall transmit a copy of the report
19 to the chief executive of the employer, as well as to the governing body of the employer, including
20 any board which exercises financial oversight of the employer, if ~~applicable~~. the employer has a
21 governing body. Reports received under this section shall not be public records. Employers or
22 former employers in receipt of a report under this section shall treat the report, and the
23 information contained within that report, as confidential and as though it were still held by the
24 Retirement System under G.S. 135-6.1."

25 **SECTION 21.(d)** G.S. 128-33.1 is amended by adding a new subsection to read:

26 "(e1) The Retirement Systems Division of the Department of State Treasurer may disclose
27 to employers or former employers that made a contribution for an employee or former employee
28 to the Retirement System any information not public under this Section regarding that employee
29 necessary to conduct the business of the Retirement System. Employers and former employers
30 in receipt of this information shall treat the information as confidential and this information shall
31 not be a public record."

32 **SECTION 21.(e)** G.S. 128-30(g)(2)b. reads as rewritten:

33 "b. Each employer shall transmit to the Retirement System on account of
34 each member who retires on or after January 1, 2015, having earned
35 his or her last month of membership service as an employee of that
36 employer the lump sum payment, as calculated under G.S. 128-26(y)
37 for inclusion in the Pension Accumulation Fund, that would have been
38 necessary in order for the retirement system to restore the member's
39 retirement allowance to the pre-cap amount. Employers are not
40 required to make contributions on account of any retiree who became
41 a member on or after January 1, 2015, and who earned at least five
42 years of membership service in the Retirement System after January
43 1, 2015. The retirement allowance of a member with a final average
44 compensation of more than one hundred thousand dollars (\$100,000),
45 as hereinafter indexed, shall not be subject to the contribution-based
46 benefit cap if the compensation was earned from multiple
47 simultaneous employers, unless an employer's share of the average
48 final compensation exceeds one hundred thousand dollars (\$100,000).
49 An employer is not required to make contributions on account of any
50 retiree whose final average compensation exceeds one hundred
51 thousand dollars (\$100,000), as hereinafter indexed, based upon

1 compensation earned from multiple simultaneous employers, unless
2 that employer's share of the average final compensation exceeds one
3 hundred thousand dollars (\$100,000), as provided and indexed under
4 G.S. 128-27(a3).

5 Under such rules as the Board of Trustees shall adopt, the
6 Retirement System shall report monthly to each employer a list of
7 those members for whom the employer made a contribution to the
8 Retirement System in the preceding month that are most likely to
9 require an additional employer contribution should they elect to retire
10 in the following 12 months, if applicable. Reports received under this
11 section shall not be public records. Employers or former employers in
12 receipt of a report under this section shall treat the report, and the
13 information contained within that report, as confidential and as though
14 it were still held by the Retirement System under G.S. 128-33.1."

15 **SECTION 21.(f)** G.S. 128-30(j) reads as rewritten:

16 "(j) Pension Spiking Report. – Upon receipt of a report from the Retirement System
17 generated pursuant to G.S. 128-30(g)(2)b., containing a list of employees for whom the employer
18 made a contribution to the North Carolina Local Governmental Employees' Retirement System
19 that is likely to require an additional employer contribution should the employee elect to retire in
20 the following 12 months, the employer's chief financial officer shall transmit a copy of the report
21 to the governing body of the employer, if ~~applicable.~~ the employer has a governing body. Reports
22 received under this section shall not be public records. Employers and former employers in
23 receipt of a report under this section shall treat the report, and the information contained within
24 that report, as confidential and as though it were still held by the Retirement System under
25 G.S. 128-33.1."

26 **SECTION 22.** G.S. 135-48.47 reads as rewritten:

27 **"§ 135-48.47. Participation in State Health Plan by local government employees and**
28 **dependents.**

29 ...

30 (d) Local governments participating in the Plan as of April 1, 2016, may elect to withdraw
31 from participating in the Plan effective January 1, 2017. Notice of withdrawal must be given by
32 the local government to the Plan no later than September 15, 2016.

33 (e) Except as permitted under subsection (d) of this section, a local government unit's
34 election to participate in the Plan is irrevocable."

35 **SECTION 23.** G.S. 147-69.7(b)(1)f. reads as rewritten:

36 "f. With respect to the Retirement Systems defined in ~~G.S. 147-69.2(d)~~
37 G.S. 147-69.2(b)(8) and any other pension plans, the adequacy of
38 funding for the Retirement Systems based on reasonable actuarial
39 factors."

40 **SECTION 24.** G.S. 1-359(d) reads as rewritten:

41 "(d) In addition to the intercept authority under G.S. 135-8(f) and G.S. 128-30(g), when
42 the Teachers' and State Employees' Retirement System of North Carolina, the Disability Income
43 Plan of North Carolina, or the North Carolina Local Government Employees' Retirement System
44 prevails in a civil action against a participating employer, as defined under ~~G.S. 35-1~~ G.S. 135-1
45 or G.S. 128-21, to collect monies owed, the Teachers' and State Employees' Retirement System
46 of North Carolina, the Disability Income Plan of North Carolina, or the North Carolina Local
47 Government Employees' Retirement System may attach or garnish the employer's credit card
48 receipts or other third-party payments in payment of the amount owed in the manner provided
49 by subsection (a) of this section. Direct receipt by the Teachers' and State Employees' Retirement
50 System of North Carolina, the Disability Income Plan of North Carolina, or the North Carolina

1 Local Government Employees' Retirement System is a sufficient discharge for the amount paid
2 by a credit card company, clearinghouse, or third-party payment processor."
3

4 **PART V. WATER/WASTEWATER PUBLIC ENTERPRISE REFORM**

5 **SECTION 25.(a)** G.S. 159G-20 reads as rewritten:

6 **"§ 159G-20. Definitions.**

7 The following definitions apply in this Chapter:

8 ...

9 (4a) Distressed unit. – A public water system or wastewater system operated by a
10 local government unit exhibiting signs of failure to identify or address those
11 financial or operating needs necessary to enable that system to become or to
12 remain a local government unit generating sufficient revenues to adequately
13 fund management and operations, personnel, appropriate levels of
14 maintenance, and reinvestment that facilitate the provision of reliable water
15 or wastewater services.

16 ...

17 (13) Local government unit. – Any of the following:

- 18 a. A city as defined in G.S. 160A-1.
19 b. A county.
20 c. A consolidated city-county as defined in G.S. 160B-2.
21 d. ~~A county water and sewer district created pursuant to Article 6 of~~
22 ~~Chapter 162A of the General Statutes.~~Any of the following entities
23 created pursuant to Chapter 162A of the General Statutes:
24 1. A water and sewer authority created pursuant to Article 1.
25 2. A metropolitan water district created pursuant to Article 4.
26 3. A metropolitan sewerage district created pursuant to Article 5.
27 4. A metropolitan water and sewerage district created pursuant to
28 Article 5A.
29 5. A county water and sewer district created pursuant to Article
30 6.
31 e. ~~A metropolitan sewerage district or a metropolitan water district~~
32 ~~created pursuant to Article 4 of Chapter 162A of the General Statutes.~~
33 f. ~~A water and sewer authority created under Article 1 of Chapter 162A~~
34 ~~of the General Statutes.~~
35 g. A sanitary district created pursuant to Part 2 of Article 2 of Chapter
36 130A of the General Statutes.
37 h. A joint agency created pursuant to Part 1 or Part 5 of Article 20 of
38 Chapter 160A of the General Statutes.
39 i. A joint agency that was created by agreement between two cities and
40 towns to operate an airport pursuant to G.S. 63-56 and that provided
41 drinking water and wastewater services off the airport premises before
42 1 January 1995.

43 ...

44 (22a) Viable Utility Reserve. – The Viable Utility Reserve established in
45 G.S. 159G-22 as an account in the Water Infrastructure Fund.

46"

47 **SECTION 25.(b)** G.S. 159G-22 is amended by adding two new subsections to read:

48 "(h) Viable Utility Reserve. – The Viable Utility Reserve is established as an account
49 within the Water Infrastructure Fund. The account is established to receive appropriated State
50 funds to be used for grants to local government units for those purposes authorized under this

1 Article. Revenue credited to the Viable Utility Reserve is neither received from the federal
2 government nor provided as a match for federal funds.

3 (i) Viable Utility Accounts. – The Department is directed to establish accounts within
4 the Viable Utility Reserve to administer grants for public water systems or wastewater systems
5 owned by local government units."

6 **SECTION 25.(c)** G.S. 159G-30 reads as rewritten:

7 **"§ 159G-30. Department's responsibility.**

8 The Department, through the ~~Division of Water Infrastructure, Division,~~ administers ~~loans~~
9 the following:

10 (1) Loans and grants made from the CWSRF, the DWSRF, the Wastewater
11 Reserve, and the Drinking Water Reserve and shall administer the Reserve.

12 (2) The award of funds by the State Water Infrastructure Authority from the
13 Community Development Block Grant program to local government units for
14 infrastructure projects.

15 (3) Grants made from the Viable Utility Reserve."

16 **SECTION 25.(d)** G.S. 159G-31 is amended by adding a new subsection to read:

17 "(d) A local government unit is eligible to apply for a grant from the Viable Utility
18 Reserve."

19 **SECTION 25.(e)** G.S. 159G-32 is amended by adding a new subsection to read:

20 "(d) Viable Utility Reserve. – The Department is authorized to make grants from the
21 Viable Utility Reserve to do any of the following:

22 (1) Provide physical interconnection and extension of public water or wastewater
23 infrastructure to provide regional service.

24 (2) Rehabilitate existing public water or wastewater infrastructure.

25 (3) Decentralize an existing public water system or wastewater system into
26 smaller viable parts.

27 (4) Fund a study of any one or more of the following:

28 a. Rates.

29 b. Asset inventory and assessment.

30 c. Merger and regionalization options.

31 (5) Fund other options deemed feasible which results in local government units
32 generating sufficient revenues to adequately fund management and
33 operations, personnel, appropriate levels of maintenance, and reinvestment
34 that facilitate the provision of reliable water or wastewater services."

35 **SECTION 25.(f)** Article 2 of Chapter 159G of the General Statutes is amended by
36 adding a new section to read:

37 **"§ 159G-34.5. Grant types available from Viable Utility Reserve.**

38 (a) The Department is authorized to make the following types of grants from the Viable
39 Utility Reserve:

40 (1) Asset assessment and rate study grant. – An asset inventory and assessment
41 grant is available to inventory the existing public water or wastewater system,
42 or both, document the condition of the inventoried infrastructure, and conduct
43 a rate study to determine a rate structure sufficient to prevent the local
44 government unit from becoming a distressed unit.

45 (2) Merger/regionalization feasibility grant. – A merger/regionalization grant is
46 available to determine the feasibility of consolidating the management of
47 multiple water or wastewater systems into a single operation or to provide
48 regional treatment or water supply and the best way of carrying out the
49 consolidation or regionalization. The Department shall not make a grant under
50 this subdivision for a merger or regionalization proposal that would result in
51 a new surface water transfer regulated under G.S. 143-215.22L.

1 (3) Project grant. – A project grant is available for a portion of the costs of a public
2 water system or wastewater system project as defined in G.S. 159G-32(d).

3 (b) A grant awarded from the Viable Utility Reserve may be awarded to a regional
4 council of government created under Part 2 of Article 20 of Chapter 160A of the General Statutes
5 or to a regional planning commission created under Article 19 of Chapter 153A of the General
6 Statutes, if the Department and the Local Government Commission determine it is in the best
7 interest of the local government unit.

8 (c) Each type of grant must be administered through a separate account within the Viable
9 Utility Reserve."

10 **SECTION 25.(g)** G.S. 159G-35 reads as rewritten:

11 **"§ 159G-35. Criteria for loans and grants.**

12 (a) CWSRF and DWSRF. – Federal law determines the criteria for awarding a loan or
13 grant from the CWSRF or the DWSRF. An award of a loan or grant from one of these accounts
14 must meet the criteria set under federal law. The Department is directed to establish through
15 negotiation with the United States Environmental Protection Agency the criteria for evaluating
16 applications for loans and grants from the CWSRF and the DWSRF and the priority assigned to
17 the criteria. The Department must incorporate the negotiated criteria and priorities in the
18 Capitalization Grant Operating Agreement between the Department and the United States
19 Environmental Protection Agency. The criteria and priorities incorporated in the Agreement
20 apply to a loan or grant from the CWSRF or the DWSRF. The priority considerations in
21 G.S. 159G-23 do not apply to a loan or grant from the CWSRF or the DWSRF.

22 (b) Certain Reserves. – The priority considerations in G.S. 159G-23 apply to a loan or
23 grant from the Wastewater Reserve or the Drinking Water Reserve. The Department may
24 establish by rule other criteria that apply to a loan or grant from the Wastewater Reserve or the
25 Drinking Water Reserve.

26 (c) Viable Utility Reserve. – The Local Government Commission and the Authority shall
27 jointly develop evaluation criteria for grants from the Viable Utility Reserve. These evaluation
28 criteria shall be used to review applications and award grants as provided in G.S. 159G-39."

29 **SECTION 25.(h)** G.S. 159G-36 reads as rewritten:

30 **"§ 159G-36. Limits on loans and grants.**

31 (a) CWSRF and DWSRF. – Federal law governs loans and grants from the CWSRF and
32 the DWSRF. An award of a loan or grant from one of these accounts must be consistent with
33 federal law.

34 (b) Certain Reserve Cost Limit. – The amount of a loan or grant from the Wastewater
35 Reserve or the Drinking Water Reserve may not exceed the construction costs of a project. A
36 loan or grant from one of these Reserves is available only to the extent that other funding sources
37 are not reasonably available to the applicant.

38 (b1) Viable Utility Reserve Cost Limit. – The amount of a grant from the Viable Utility
39 Reserve shall not exceed the construction costs of a project. A grant from this Reserve is available
40 only to the extent that other funding sources are not reasonably available to the applicant.

41 (c) Certain Reserve Recipient Limit. – The following limits apply to the loan or grant
42 types made from the Wastewater Reserve or the Drinking Water Reserve to the same local
43 government unit or nonprofit water corporation:

44 (1) The amount of loans awarded for a fiscal year may not exceed three million
45 dollars (\$3,000,000).

46 (2) The amount of loans awarded for three consecutive fiscal years for targeted
47 interest rate projects may not exceed three million dollars (\$3,000,000).

48 (3) The amount of project grants awarded for three consecutive fiscal years may
49 not exceed three million dollars (\$3,000,000).

50 (4) The amount of merger/regionalization feasibility grants awarded for three
51 consecutive fiscal years may not exceed fifty thousand dollars (\$50,000).

1 (5) The amount of asset inventory and assessment grants awarded for three
2 consecutive fiscal years may not exceed one hundred fifty thousand dollars
3 (\$150,000).

4 (d) Viable Utility Reserve Recipient Limit. – Grants under the Viable Utility Reserve
5 shall not exceed fifteen million dollars (\$15,000,000) to any single local government unit. Where
6 two or more local government units are merging into a single utility, the total grant awarded shall
7 not exceed thirty million dollars (\$30,000,000)."

8 **SECTION 25.(i)** G.S. 159G-37 reads as rewritten:

9 "**§ 159G-37. Application to CWSRF, Wastewater Reserve, DWSRF, and Drinking Water**
10 **Reserve, Reserve, and Viable Utility Reserve.**

11 (a) Application. – An application for a loan or grant from the CWSRF, the Wastewater
12 Reserve, the DWSRF, or the Drinking Water ~~Reserve-Reserve~~, or a grant from the Viable Utility
13 ~~Reserve~~, must be filed with the ~~Division of Water Infrastructure of the Department- Division~~. An
14 application must be submitted on a form prescribed by the Division and must contain the
15 information required by the Division. An applicant must submit to the Division any additional
16 information requested by the Division to enable the Division to make a determination on the
17 application. An application that does not contain information required on the application or
18 requested by the Division is incomplete and is not eligible for consideration. An applicant may
19 submit an application in as many categories as it is eligible for consideration under this Article.

20 (b) Certification. – ~~The Division of Water Infrastructure~~ shall require all local
21 governments applying for loans or grants for water or wastewater purposes to certify that no
22 funds received from water or wastewater utility operations have been transferred to the local
23 government's general fund for the purpose of supplementing the resources of the general fund.
24 The prohibition in this section shall not be interpreted to include payments made to the local
25 government to reimburse the general fund for expenses paid from that fund that are reasonably
26 allocable to the regular and ongoing operations of the utility, including, but not limited to, rent
27 and shared facility costs, engineering and design work, plan review, and shared personnel costs."

28 **SECTION 25.(j)** G.S. 159G-39 is amended by adding a new subsection to read:

29 "(e) Viable Utility Reserve Terms. – The Department shall not award a grant from the
30 Viable Utility Reserve Fund unless the Local Government Commission approves the award of
31 the grant and the terms of the grant. The Department and the Local Government Commission
32 may, in their discretion, impose specific performance measures or conditions on any grant
33 awarded from the Viable Utility Reserve."

34 **SECTION 25.(k)** Article 2 of Chapter 159G of the General Statutes is amended by
35 adding a new section to read:

36 "**§ 159G-45. Assessment of local government units; assistance.**

37 (a) The Authority and the Local Government Commission shall develop criteria to
38 determine how local government units should be assessed and reviewed in accordance with this
39 section, and these criteria shall address at least all of the following:

40 (1) Whether the public water or wastewater system serves less than 10,000
41 customers.

42 (2) Whether the public water or wastewater system has an established,
43 operational, and adequately funded program for its repair, maintenance, and
44 management.

45 (3) Whether the annual debt service is disproportionate to the public water or
46 wastewater system's annual revenue.

47 (4) Whether the local government unit has appropriated funds from its utility or
48 public service enterprise fund in accordance with G.S. 159-13(b)(14) in two
49 or more of the preceding five fiscal years without maintaining a reserve fund
50 sufficient to provide for operating expenses, capital outlay, and debt service.

1 (5) Whether the local government unit has appropriated funds to supplement the
2 operating expenses, capital outlay, or debt service on outstanding utility or
3 enterprise bonds or notes in excess of the user fees collected in two or more
4 of the preceding five fiscal years.

5 (b) Utilizing the assessment and review process, the Authority and Local Government
6 Commission shall identify distressed units. Each distressed unit identified under this subsection
7 shall do all of the following:

8 (1) Conduct an asset assessment and rate study, as directed and approved by the
9 Authority and the Local Government Commission.

10 (2) Participate in a training and educational program approved by the Authority
11 and the Local Government Commission for that distressed unit. Attendance
12 shall be mandatory for any governing board members and staff whose
13 participation is required by the Authority and Local Government Commission.
14 The scope of training and education, and its method of delivery, shall be at the
15 discretion of the Authority and Local Government Commission.

16 (3) Develop an action plan, taking into consideration all of the following:

17 a. A short-term and a long-term plan for infrastructure repair,
18 maintenance, and management.

19 b. Continuing education of the governing board and system operating
20 staff.

21 c. Long-term financial management to ensure the public water system or
22 wastewater system will generate sufficient revenue to adequately fund
23 management and operations, personnel, appropriate levels of
24 maintenance, and reinvestment that facilitate the provision of reliable
25 water or wastewater services.

26 d. Any other matters identified by the Authority or the Local Government
27 Commission.

28 (c) Once an identified distressed unit has completed all of the requirements of subsection
29 (b) of this section, that unit shall no longer be identified as a distressed unit for the remainder of
30 that assessment and review cycle.

31 (d) The Authority and the Local Government Commission shall establish the frequency
32 of the cycle for assessment and review of local government units under this section, which shall
33 be no less than every two years."

34 **SECTION 25.(I)** Chapter 162A of the General Statutes is amended by adding a new
35 Article to read:

36 "Article 10.

37 "Dissolution and Merger of Units.

38 **§ 162A-850. "Unit" defined.**

39 For purposes of this Article, the term "unit" means any of the following entities created
40 pursuant to this Chapter:

41 (1) A water and sewer authority created pursuant to Article 1.

42 (2) A metropolitan water district created pursuant to Article 4.

43 (3) A metropolitan sewerage district created pursuant to Article 5.

44 (4) A metropolitan water and sewerage district created pursuant to Article 5A.

45 (5) A county water and sewer district created pursuant to Article 6.

46 **§ 162A-855. Information needed to merge or dissolve.**

47 (a) Prior to any action by the Environmental Management Commission under this
48 Article, for any unit to merge or dissolve all of the following information must be supplied to the
49 Environmental Management Commission:

50 (1) The name of the unit or units to be merged or dissolved.

- 1 (2) The names of the district board members of the unit or units to be merged or
2 dissolved.
- 3 (3) The proposed date of the merger or dissolution.
- 4 (4) A map or description of the jurisdiction of the unit or units to be merged or
5 dissolved.
- 6 (5) The name of the entity with whom the unit or units will be merged, if
7 applicable.
- 8 (6) The names of the governing board members or district board members of the
9 entity with which the unit is proposed to be merged, if applicable.
- 10 (7) A map or description of the jurisdiction of the entity with which the unit is
11 proposed to be merged.
- 12 (8) Resolutions adopted by each district board or governing board requesting the
13 merger or dissolution.
- 14 (9) A request from each chair of a district board requesting a merger or dissolution
15 that a representative of the Environmental Management Commission hold a
16 public hearing in that district to discuss the proposed merger or dissolution
17 and to receive public comment. The date, time, and place of the public hearing
18 shall be mutually agreed to by the chair of the Environmental Management
19 Commission and the chair of each requesting district board.
- 20 (10) A copy of the most recent audit performed in accordance with G.S. 159-34 for
21 the unit to be merged or dissolved.
- 22 (11) A copy of any permits issued by the Department of Environmental Quality to
23 the unit or units to be merged or dissolved.
- 24 (12) A copy of any grant awarded under Article 2 of this Chapter involving the unit
25 or units to be merged or dissolved, and any conditions thereof, if applicable.
- 26 (13) Any other information deemed necessary by the Department of Environmental
27 Quality, the Local Government Commission, or the Environmental
28 Management Commission.

29 (b) Upon receipt of a request to dissolve or merge, the Environmental Management
30 Commission shall provide a copy of all information submitted in accordance with this section to
31 the Department of Environmental Quality and the Local Government Commission.

32 (c) Upon confirmation of the time and place of the public hearing, each district board of
33 an affected unit and any other governing board affected shall do all of the following:

- 34 (1) Cause notice of the public hearing to be posted, at least 30 days prior to the
35 hearing, at the courthouse in any county within which the affected unit lies.
- 36 (2) Publish the notice at least once a week for four successive weeks in a
37 newspaper having general circulation in the affected unit, the first publication
38 to be at least 30 days prior to the public hearing.
- 39 (3) Publish notice in any other manner required by the Environmental
40 Management Commission.

41 "**§ 162A-860. Merger of units.**

42 (a) Any unit may merge with any other unit, any county, any city, any consolidated
43 city-county, any sanitary district created pursuant to Part 2 of Article 2 of Chapter 130A of the
44 General Statutes, any joint agency created pursuant to Part 1 or Part 5 of Article 20 of Chapter
45 160A of the General Statutes, or any joint agency that was created by agreement between two
46 cities and towns to operate an airport pursuant to G.S. 63-56 and that provided drinking water
47 and wastewater services off the airport premises before January 1, 1995, if the merger is a
48 condition of receiving a grant from the Viable Utility Reserve as provided in Article 2 of Chapter
49 159G of the General Statutes. The Environmental Management Commission shall adopt a
50 resolution transferring the assets, liabilities, and other obligations to the entity with which the
51 unit is being merged and dissolving the unit as provided for in this Article.

1 **(b)** Any unit may merge with any other unit, any county, any city, any consolidated
2 city-county, any sanitary district created pursuant to Part 2 of Article 2 of Chapter 130A of the
3 General Statutes, any joint agency created pursuant to Part 1 or Part 5 of Article 20 of Chapter
4 160A of the General Statutes, or any joint agency that was created by agreement between two
5 cities and towns to operate an airport pursuant to G.S. 63-56 and that provided drinking water
6 and wastewater services off the airport premises before January 1, 1995, on approval by the
7 Environmental Management Commission, upon consultation with the Department of
8 Environmental Quality and the Local Government Commission. The Environmental
9 Management Commission may adopt a resolution transferring the assets, liabilities, and other
10 obligations to the entity with which the unit is being merged and dissolving the unit as provided
11 for in this Article, if the Environmental Management Commission deems the merger in the best
12 interest of the people of the State.

13 **(c)** The Environmental Management Commission shall adopt a resolution dissolving a
14 unit and transferring the assets, liabilities, and other obligations of the unit to another unit when
15 the procedures set forth in G.S. 162A-855 have been completed and all of the following apply:

16 **(1)** Both units are created pursuant to Article 5 of this Chapter.

17 **(2)** Both units are located in the same county.

18 **(3)** The jurisdiction of the units is contiguous.

19 **(4)** The unit to be merged and dissolved does not directly provide sewerage
20 services to any customers.

21 **(5)** The unit to be merged and dissolved leases its assets to the unit with which it
22 is proposed to be merged.

23 **(6)** The unit to be merged and dissolved has no outstanding debts.

24 **"§ 162A-865. Dissolution of units.**

25 **(a)** Any unit may be dissolved, if the dissolution is a condition of a grant from the Viable
26 Utility Reserve as provided in Article 2 of Chapter 159G of the General Statutes. The
27 Environmental Management Commission shall adopt a resolution transferring the assets,
28 liabilities, and other obligations as provided for in the grant conditions imposed under Article 2
29 of Chapter 159G of the General Statutes.

30 **(b)** Any unit may be dissolved in order to merge that unit with any other unit, any county,
31 any city, any consolidated city-county, any sanitary district created pursuant to Part 2 of Article
32 2 of Chapter 130A of the General Statutes, any joint agency created pursuant to Part 1 or Part 5
33 of Article 20 of Chapter 160A of the General Statutes, or any joint agency that was created by
34 agreement between two cities and towns to operate an airport pursuant to G.S. 63-56 and that
35 provided drinking water and wastewater services off the airport premises before January 1, 1995,
36 and establish a new entity created under the General Statutes, on approval by the Environmental
37 Management Commission, upon consultation with the Department of Environmental Quality and
38 the Local Government Commission. The Environmental Management Commission may adopt a
39 resolution transferring the assets, liabilities, and other obligations to the new entity and dissolving
40 the unit as provided for in this Article, if the Environmental Management Commission deems the
41 merger in the best interest of the people of the State.

42 **"§ 162A-870. Effective date of merger or dissolution.**

43 Upon the adoption of a resolution of merger or dissolution by the Environmental
44 Management Commission as provided in this Article, the effective date for merger and
45 dissolution shall be fixed as of June 30 following the adoption of the resolution or the second
46 June 30 following the adoption of the resolution.

47 **"§ 162A-875. Effect of merger or dissolution.**

48 **(a)** Upon adoption of the resolution of merger or dissolution by the Environmental
49 Management Commission, all of the following shall apply on the effective date set forth in the
50 resolution:

- 1 (1) All property, real, personal, and mixed, including accounts receivable,
2 belonging to the dissolving unit shall be transferred, disposed of, or otherwise
3 accounted for as provided in the resolution of merger or dissolution.
- 4 (2) All judgments, liens, rights of liens, and causes of action of any nature in favor
5 of the dissolving unit shall vest in and remain and inure to the benefit of the
6 merged district.
- 7 (3) All taxes, assessments, sewer charges, and any other debts, charges, or fees
8 owing to the dissolving unit shall be owed to and collected as provided in the
9 resolution of merger or dissolution.
- 10 (4) All actions, suits, and proceedings pending against, or having been instituted
11 by, the dissolving unit shall not be abated by merger, but all such actions,
12 suits, and proceedings shall be continued and completed in the same manner
13 as if merger had not occurred, and the merged entity shall be a party to all
14 such actions, suits, and proceedings in the place and stead of the dissolving
15 unit and shall pay or cause to be paid any judgments rendered against the
16 dissolving unit in any such actions, suits, or proceedings. No new process is
17 required to be served in any such action, suit, or proceeding.
- 18 (5) All obligations of the dissolving unit, including outstanding indebtedness,
19 shall be assumed as provided in the resolution of merger or dissolution, and
20 all such obligations and outstanding indebtedness shall constitute obligations
21 and indebtedness as provided in the resolution of merger or dissolution.
- 22 (6) All ordinances, rules, regulations, and policies of the dissolving unit shall
23 continue in full force and effect until repealed or amended by the governing
24 body of the merged entity.
- 25 (7) The dissolving unit shall be abolished and shall no longer be constituted a
26 public body or a body politic and corporate, except for purposes of carrying
27 into effect the provisions and intent of this section.
- 28 (8) Governance of the district shall be as specified in the resolution of merger or
29 dissolution, which may be amended by the Environmental Management
30 Commission as needed.

31 (b) All governing boards and district boards are authorized to take the actions and execute
32 the documents necessary to effectuate the provisions and intent of this section."

33 **SECTION 25.(m)** Article 20 of Chapter 160A of the General Statutes is amended
34 by adding a new Part to read:

35 "Part 5. Water and Wastewater Systems.

36 "§ 160A-481.1. Definitions.

37 The words defined in this section shall have the meanings indicated when used in this Part:

- 38 (1) Local government unit. – Defined in G.S. 159G-20.
39 (2) Undertaking. – Defined in G.S. 160A-460.
40 (3) Unit of local government. – Defined in G.S. 160A-460.

41 "§ 160A-481.2. Interlocal cooperation authorized.

42 Interlocal cooperation, as provided in Part 1 of this Article, is authorized between any local
43 government unit and any other unit of local government in this State for any purpose. When two
44 or more local government units agree to contract for one or more undertakings under this Part,
45 the provisions of Part 1 of this Article apply."

46 **SECTION 25.(n)** The Department of Environmental Quality shall study the statutes
47 and rules governing subbasin transfers and make recommendations as to whether the statutes and
48 rules should be amended. The study shall specifically examine whether transfers of water
49 between subbasins within the same major river basin should continue to be required to comply
50 with all of the same requirements under G.S. 143-215.22L as transfers of water between major
51 river basins. In conducting this study, the Department shall consider whether the costs of

1 complying with specific requirements, including financial costs and time, are justified by the
2 benefits of the requirements, including the production of useful information and public notice
3 and involvement. No later than October 1, 2019, the Department of Environmental Quality shall
4 report its findings and recommendations to the Environmental Review Commission.

5 **SECTION 25.(o)** The Treasurer and Secretary of State shall study and make
6 recommendations as to the feasibility of authorizing historical charters for units of local
7 government that have become, or are on the brink of becoming, defunct. The study shall
8 specifically examine whether these historical charters are needed, the impact of these charters on
9 the bond rating of the State and its political subdivisions, and the consequences of these historical
10 charters. No later than March 1, 2020, the Treasurer and Secretary of State shall report their
11 findings and recommendations to the General Assembly.

12 **SECTION 25.(p)** Subsections (a) through (m) of this section become effective
13 August 1, 2019. The remainder of this section is effective when it becomes law.

14 **SECTION 26.** Except as otherwise provided, this act is effective when it becomes
15 law.