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PROPOSED SENATE COMMITTEE SUBSTITUTE H1087-PCS10859-MHxfa-12

Short Title: Water/Wastewater Public Enterprise Reform.

(Public)

Sponsors:

Referred to:

May 14, 2020

A BILL TO BE ENTITLED

AN ACT TO IMPROVE VIABILITY OF THE WATER AND WASTEWATER SYSTEMS OF CERTAIN UNITS OF LOCAL GOVERNMENT BY REQUIRING LOCAL GOVERNMENT COMMISSION APPROVAL OF GRANT APPLICATIONS; TO REQUIRE CERTAIN WATER AND WASTEWATER SYSTEMS TO UNDERGO A REVIEW OF INFRASTRUCTURE MANAGEMENT, ORGANIZATIONAL MANAGEMENT, AND FINANCIAL MANAGEMENT; TO CREATE AND PROVIDE FUNDING FOR THE VIABLE UTILITY RESERVE TO PROVIDE GRANT MONEY FOR LOCAL GOVERNMENT UNITS; TO PROVIDE A STATUTORY PROCESS FOR MERGER AND DISSOLUTION OF WATER AND WASTEWATER SYSTEMS ESTABLISHED UNDER CHAPTER 162A OF THE GENERAL STATUTES; TO PROMOTE THE IMPORTANCE OF INTERLOCAL AGREEMENTS TO THE OPERATION OF WATER AND WASTEWATER SYSTEMS; TO STUDY SUBBASIN TRANSFERS AND HISTORICAL CHARTERS; TO REALLOCATE CERTAIN UNUSED FUNDS FROM THE PFAS RECOVERY FUND; AND TO PROVIDE FUNDS FOR THE SOUTHERN REGIONAL AREA HEALTH EDUCATION CENTER AND FOR WATER RESOURCES PROJECTS.

The General Assembly of North Carolina enacts:

**PART I. REFORM OF WATER AND WASTEWATER PUBLIC ENTERPRISES**

**SECTION 1.(a)** G.S. 159G-20 reads as rewritten:

**"§ 159G-20. Definitions.**

The following definitions apply in this Chapter:

...

(4a) Distressed unit. – 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.

...

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



\* H 1 0 8 7 - P C S 1 0 8 5 9 - M H X F A - 1 2 \*

- 1 a. A city as defined in G.S. 160A-1.
- 2 b. A county.
- 3 c. A consolidated city-county as defined in G.S. 160B-2.
- 4 d. ~~A county water and sewer district created pursuant to Article 6 of~~  
 5 ~~Chapter 162A of the General Statutes.~~Any of the following entities  
 6 created pursuant to Chapter 162A of the General Statutes:  
 7 1. A water and sewer authority created pursuant to Article 1.  
 8 2. A metropolitan water district created pursuant to Article 4.  
 9 3. A metropolitan sewerage district created pursuant to Article 5.  
 10 4. A metropolitan water and sewerage district created pursuant to  
 11 Article 5A.  
 12 5. A county water and sewer district created pursuant to Article  
 13 6.
- 14 e. ~~A metropolitan sewerage district or a metropolitan water district~~  
 15 ~~created pursuant to Article 4 of Chapter 162A of the General Statutes.~~
- 16 f. ~~A water and sewer authority created under Article 1 of Chapter 162A~~  
 17 ~~of the General Statutes.~~
- 18 g. A sanitary district created pursuant to Part 2 of Article 2 of Chapter  
 19 130A of the General Statutes.
- 20 h. A joint agency created pursuant to Part 1 or Part 5 of Article 20 of  
 21 Chapter 160A of the General Statutes.
- 22 i. A joint agency that was created by agreement between two cities and  
 23 towns to operate an airport pursuant to G.S. 63-56 and that provided  
 24 drinking water and wastewater services off the airport premises before  
 25 1 January 1995.

26 ...  
 27 (14a) Operating deficit. – The shortage between revenues plus available reserves  
 28 and operating expenditures, including capital expenditures, necessary to  
 29 maintain operations in a distressed unit.

30 ...  
 31 (22a) Viable Utility Reserve. – The Viable Utility Reserve established in  
 32 G.S. 159G-22 as an account in the Water Infrastructure Fund.

33 ...."  
 34 **SECTION 1.(b)** G.S. 159G-22 is amended by adding two new subsections to read:

35 "(h) Viable Utility Reserve. – The Viable Utility Reserve is established as an account  
 36 within the Water Infrastructure Fund. The account is established to receive appropriated State  
 37 funds to be used for grants to local government units for those purposes authorized under this  
 38 Article. Revenue credited to the Viable Utility Reserve is neither received from the federal  
 39 government nor provided as a match for federal funds.

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

43 **SECTION 1.(c)** G.S. 159G-30 reads as rewritten:

44 "**§ 159G-30. Department's responsibility.**

45 The Department, through the ~~Division of Water Infrastructure, Division,~~ administers loans  
 46 the following:

- 47 (1) Loans and grants made from the CWSRF, the DWSRF, the Wastewater  
 48 Reserve, and the Drinking Water Reserve ~~and shall administer the Reserve.~~
- 49 (2) The award of funds by the State Water Infrastructure Authority from the  
 50 Community Development Block Grant program to local government units for  
 51 infrastructure projects.

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

2           **SECTION 1.(d)** G.S. 159G-31 is amended by adding two new subsections to read:

3           "(d) A local government unit is eligible to apply for a grant from the Viable Utility

4 Reserve.

5           (e) The Local Government Commission may submit an application on behalf of a  
6 distressed unit for an emergency grant from the Viable Utility Reserve to cover operating deficits  
7 of that local government unit's public water system or wastewater system, and any such  
8 application shall be deemed approved by the Local Government Commission upon submission."

9           **SECTION 1.(e)** G.S. 159G-32 is amended by adding a new subsection to read:

10          "(d) Viable Utility Reserve. – The Department is authorized to make grants from the

11 Viable Utility Reserve to do any of the following:

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

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

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

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

18               a.   Rates.

19               b.   Asset inventory and assessment.

20               c.   Merger and regionalization options.

21           (5)   Fund other options deemed feasible which result in local government units  
22 generating sufficient revenues to adequately fund management and  
23 operations, personnel, appropriate levels of maintenance, and reinvestment  
24 that facilitate the provision of reliable water or wastewater services.

25           (6)   Provide emergency grants for operating deficits in accordance with  
26 G.S. 159G-34.5(a)(4)."

27          **SECTION 1.(f)** Article 2 of Chapter 159G of the General Statutes is amended by  
28 adding a new section to read:

29          "**§ 159G-34.5. Grant types available from Viable Utility Reserve.**

30          (a) The Department is authorized to make the following types of grants from the Viable

31 Utility Reserve:

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

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

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

46           (4)   Emergency grant for operating deficit. – An emergency grant for operating  
47 deficits is available for distressed units if the Local Government Commission  
48 has exercised its powers under G.S. 159-181 to assume full or partial control  
49 over the affairs of the public water or wastewater system or of the local  
50 government unit or public authority that owns or operates the public water or  
51 wastewater system.

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

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

8               **SECTION 1.(g)** G.S. 159G-35 reads as rewritten:

9       **"§ 159G-35. Criteria for loans and grants.**

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

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

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

27               **SECTION 1.(h)** G.S. 159G-36 reads as rewritten:

28       **"§ 159G-36. Limits on loans and grants.**

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

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

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

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

- 42               (1) The amount of loans awarded for a fiscal year may not exceed three million  
43 dollars (\$3,000,000).
- 44               (2) The amount of loans awarded for three consecutive fiscal years for targeted  
45 interest rate projects may not exceed three million dollars (\$3,000,000).
- 46               (3) The amount of project grants awarded for three consecutive fiscal years may  
47 not exceed three million dollars (\$3,000,000).
- 48               (4) The amount of merger/regionalization feasibility grants awarded for three  
49 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) Viability Utility Reserve Recipient Limit. – Grants under the Viability Utility Reserve are  
5 limited as follows:

6 (1) Grants for the purposes set forth in subdivisions (1) through (5) of  
7 G.S. 159-32(d) shall not exceed fifteen million dollars (\$15,000,000) to any  
8 single local government unit. Where two or more local government units are  
9 merging into a single utility, the total grant awarded shall not exceed thirty  
10 million dollars (\$30,000,000).

11 (2) Grants for the purpose set forth in G.S. 159-32(d)(6) to any single local  
12 government unit shall not (i) exceed seven hundred fifty thousand dollars  
13 (\$750,000) in any fiscal year and (ii) be awarded for more than three  
14 consecutive fiscal years."

15 **SECTION 1.(i)** G.S. 159G-37 reads as rewritten:

16 "**§ 159G-37. Application to CWSRF, Wastewater Reserve, DWSRF, and Drinking Water**  
17 **Reserve.**Reserve, and Viability Utility Reserve.

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

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

35 **SECTION 1.(j)** G.S. 159G-39 is amended by adding a new subsection to read:

36 "(e) Viability Utility Reserve Terms. – The Department shall not award a grant from the  
37 Viability Utility Reserve Fund unless the Local Government Commission approves the award of  
38 the grant and the terms of the grant. Any emergency grant application submitted under  
39 G.S. 159G-31(e) shall be deemed approved by the Local Government Commission upon  
40 submission. The Department and the Local Government Commission may, in their discretion,  
41 impose specific performance measures or conditions on any grant awarded from the Viability  
42 Utility Reserve, including any grant submitted under G.S. 159G-31(e)."

43 **SECTION 1.(k)** Article 2 of Chapter 159G of the General Statutes is amended by  
44 adding a new section to read:

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

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

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



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

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

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

4    **"§ 162A-855. Information needed to merge or dissolve.**

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

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

9           (2)    The names of the district board members of the unit or units to be merged or  
10 dissolved.

11          (3)    The proposed date of the merger or dissolution.

12          (4)    A map or description of the jurisdiction of the unit or units to be merged or  
13 dissolved.

14          (5)    The name of the entity with whom the unit or units will be merged, if  
15 applicable.

16          (6)    The names of the governing board members or district board members of the  
17 entity with which the unit is proposed to be merged, if applicable.

18          (7)    A map or description of the jurisdiction of the entity with which the unit is  
19 proposed to be merged.

20          (8)    Resolutions adopted by each district board or governing board requesting the  
21 merger or dissolution.

22          (9)    A request from each chair of a district board requesting a merger or dissolution  
23 that a representative of the Environmental Management Commission hold a  
24 public hearing in that district to discuss the proposed merger or dissolution  
25 and to receive public comment. The date, time, and place of the public hearing  
26 shall be mutually agreed to by the chair of the Environmental Management  
27 Commission and the chair of each requesting district board.

28          (10)   A copy of the most recent audit performed in accordance with G.S. 159-34 for  
29 the unit to be merged or dissolved.

30          (11)   A copy of any permits issued by the Department of Environmental Quality to  
31 the unit or units to be merged or dissolved.

32          (12)   A copy of any grant awarded under Article 2 of this Chapter involving the unit  
33 or units to be merged or dissolved and any conditions thereof, if applicable.

34          (13)   Any other information deemed necessary by the Department of Environmental  
35 Quality, the Local Government Commission, or the Environmental  
36 Management Commission.

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

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

42           (1)    Cause notice of the public hearing to be posted, at least 30 days prior to the  
43 hearing, at the courthouse in any county within which the affected unit lies.

44           (2)    Publish the notice at least once a week for four successive weeks in a  
45 newspaper having general circulation in the affected unit, the first publication  
46 to be at least 30 days prior to the public hearing.

47           (3)    Publish notice in any other manner required by the Environmental  
48 Management Commission.

49    **"§ 162A-860. Merger of units.**

50           (a)    Any unit may merge with any other unit, any county, any city, any consolidated  
51 city-county, any sanitary district created pursuant to Part 2 of Article 2 of Chapter 130A of the

1 General Statutes, any joint agency created pursuant to Part 1 or Part 5 of Article 20 of Chapter  
2 160A of the General Statutes, or any joint agency that was created by agreement between two  
3 cities and towns to operate an airport pursuant to G.S. 63-56 and that provided drinking water  
4 and wastewater services off the airport premises before January 1, 1995, if the merger is a  
5 condition of receiving a grant from the Viable Utility Reserve as provided in Article 2 of Chapter  
6 159G of the General Statutes. The Environmental Management Commission shall adopt a  
7 resolution transferring the assets, liabilities, and other obligations to the entity with which the  
8 unit is being merged and dissolving the unit as provided for in this Article.

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

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

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

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

26 (3) The jurisdiction of the units is contiguous.

27 (4) The unit to be merged and dissolved does not directly provide sewerage  
28 services to any customers.

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

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

32 **"§ 162A-865. Dissolution of units.**

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

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

50 **"§ 162A-870. Effective date of merger or dissolution.**



1 Upon the adoption of a resolution of merger or dissolution by the Environmental  
2 Management Commission as provided in this Article, the effective date for merger and  
3 dissolution shall be fixed as of June 30 following the adoption of the resolution or the second  
4 June 30 following the adoption of the resolution.

5 **"§ 162A-875. Effect of merger or dissolution.**

6 (a) Upon adoption of the resolution of merger or dissolution by the Environmental  
7 Management Commission, all of the following shall apply on the effective date set forth in the  
8 resolution:

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

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

41 **SECTION 3.** Article 20 of Chapter 160A of the General Statutes is amended by  
42 adding a new Part to read:

43 "Part 5. Water and Wastewater Systems.

44 **"§ 160A-481.1. Definitions.**

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

- 46 (1) Local government unit. – Defined in G.S. 159G-20 and G.S. 160A-460.
- 47 (2) Undertaking. – Defined in G.S. 160A-460.

48 **"§ 160A-481.2. Interlocal cooperation authorized.**

49 Interlocal cooperation, as provided in Part 1 of this Article, is authorized between any local  
50 government units in this State for any purpose. When two or more local government units agree

1 to contract for one or more undertakings under this Part, the provisions of Part 1 of this Article  
2 apply."

3 **SECTION 4.** The Department of Environmental Quality shall study the statutes and  
4 rules governing subbasin transfers and make recommendations as to whether the statutes and  
5 rules should be amended. The study shall specifically examine whether transfers of water  
6 between subbasins within the same major river basin should continue to be required to comply  
7 with all of the same requirements under G.S. 143-215.22L as transfers of water between major  
8 river basins. In conducting this study, the Department of Environmental Quality shall consider  
9 whether the costs of complying with specific requirements, including financial costs and time,  
10 are justified by the benefits of the requirements, including the production of useful information  
11 and public notice and involvement. No later than January 15, 2021, the Department of  
12 Environmental Quality shall report its findings and recommendations to the Environmental  
13 Review Commission.

14 **SECTION 5.** The Department of State Treasurer shall study and make  
15 recommendations as to the feasibility of authorizing historical charters for units of local  
16 government that have become, or are on the brink of becoming, defunct. The study shall  
17 specifically examine whether these historical charters are needed, the impact of these charters on  
18 the bond rating of the State and its political subdivisions, and the consequences of these historical  
19 charters. No later than January 15, 2021, the Department of State Treasurer shall report its  
20 findings and recommendations to the General Assembly.

21 **SECTION 6.(a)** Subsections (d), (e), (f), (g), and (h) of Section 11 of Session Law  
22 2019-241 are repealed.

23 **SECTION 6.(b)** If Senate Bill 553, 2019 Regular Session, becomes law, then Section  
24 14 of that act is repealed.

25 **SECTION 6.(c)** Subsection (a) of this section becomes effective June 30, 2020.

## 26 27 **PART II. FUNDING**

### 28 29 **VIABLE UTILITY RESERVE FUNDS**

30 **SECTION 7.(a)** Transfer. – No later than August 15, 2020, the Department of  
31 Commerce shall transfer the sum of nine million dollars (\$9,000,000) in nonrecurring funds for  
32 the 2020-2021 fiscal year from the One North Carolina Fund (Budget Code: 24609; Fund Code:  
33 2560) to the Water Infrastructure Fund administered by the Department of Environmental  
34 Quality's Division of Water Infrastructure (Budget Code: 24327).

35 **SECTION 7.(b)** Appropriation. – The funds transferred by this section are  
36 appropriated to the Viable Utility Reserve established by G.S. 159G-22, as amended by this act,  
37 to be used for the purposes set forth in G.S. 159G-32, as amended by this act.

### 38 39 **SOUTHERN REGIONAL AHEC FUNDS**

40 **SECTION 8.(a)** Transfer. – The State Controller shall transfer the sum of four  
41 million eight hundred thousand dollars (\$4,800,000) from the Coronavirus Relief Reserve  
42 established in Section 2.1 of S.L. 2020-4 to the Coronavirus Relief Fund established in Section  
43 2.2 of that same act.

44 **SECTION 8.(b)** Appropriation. – There is appropriated from the Coronavirus Relief  
45 Fund to the Office of State Budget and Management (OSBM) the sum of four million eight  
46 hundred thousand dollars (\$4,800,000) in nonrecurring funds for the 2020-2021 fiscal year to the  
47 Board of Governors of The University of North Carolina to be allocated to the Southern Regional  
48 Area Health Education Center (SR AHEC) to be used for residencies in the SR AHEC service  
49 areas and for COVID-19 related response activities.

50 **SECTION 8.(c)** Requirements. – The requirements and limitations set forth in Part  
51 I of S.L. 2020-4 shall apply to the funds appropriated by this section. OSBM shall include the

1 funds transferred and appropriated under this section in the report required under Section 1.7 of  
2 S.L. 2020-4.

#### 4 **REALLOCATION OF CERTAIN PFAS FUNDS**

5 **SECTION 9.(a)** Transfer and Reallocation. – Funds appropriated to the Division of  
6 Water Infrastructure of the Department of Environmental Quality for the 2018-2019 fiscal year  
7 by Section 13.1(d) of S.L. 2018-5 and deposited into the PFAS Recovery Fund shall be  
8 transferred and reallocated for other projects as follows:

- 9 (1) Eight hundred thirty-seven thousand seven hundred fifty-five dollars  
10 (\$837,755) to the Compensatory Mitigation Fund for the purpose of dissolving  
11 the conservation easement associated with the Little Alamance Creek stream  
12 restoration project in Alamance County and held by the State of North  
13 Carolina. Any additional funds needed to dissolve the conservation easement  
14 shall be provided by the Department of Environmental Quality from funds  
15 available to the Department.
- 16 (2) Two hundred thousand dollars (\$200,000) to the Oil or Other Hazardous  
17 Substances Pollution Protection Fund established by G.S. 143-215.87 to be  
18 used by the Department of Environmental Quality for investigation and  
19 remediation of discharges of petroleum products into waters of the State that  
20 are ineligible for funding from programs addressing leaking underground  
21 storage tanks.
- 22 (3) One hundred thousand dollars (\$100,000) to provide a grant to MountainTrue,  
23 a nonprofit corporation, for recreational water quality testing.
- 24 (4) Eight hundred sixty-two thousand two hundred forty-five dollars (\$862,245)  
25 to local governments to respond to PFAS contamination and other related  
26 water and wastewater infrastructure needs, allocated as follows:
  - 27 a. Five hundred thousand dollars (\$500,000) to the Town of Maysville  
28 for remediation, modification, reconstruction, or replacement of a  
29 contaminated public water supply well.
  - 30 b. One hundred thousand dollars (\$100,000) to the Town of Benson for  
31 a water and wastewater infrastructure project.
  - 32 c. One hundred thousand dollars (\$100,000) to the Town of Angier for a  
33 water and wastewater infrastructure project.
  - 34 d. One hundred sixty-two thousand two hundred forty-five dollars  
35 (\$162,245) to the Town of Kenansville for a water and wastewater  
36 infrastructure project.

37 **SECTION 9.(b)** This section becomes effective June 30, 2020.

#### 39 **PART III. APPROPRIATE VW SETTLEMENT FUNDS**

40 **SECTION 10.(a)** For purposes of this section, "Trust agreement" means the  
41 document setting forth the requirements and procedures for disbursement of funds to North  
42 Carolina and other beneficiaries of the environmental mitigation trust established in the consent  
43 decree resolving the case *In Re: Volkswagen "Clean Diesel" Marketing, Sales Practices, and*  
44 *Products Liability Litigation*, Civil Case No. 3:15-md-02672 in the United States District Court  
45 for the Northern District of California.

46 **SECTION 10.(b)** In accordance with Section 13.2 of S.L. 2017-57, as amended by  
47 Section 13.11 of S.L. 2018-5 (the Settlement Directives), there is appropriated from the  
48 Volkswagen Litigation Environmental Mitigation Fund (Fund) the sum of thirty million six  
49 hundred eighty-one thousand eight hundred eighty-six dollars (\$30,681,886) to fund Phase 1 of  
50 the August 28, 2018, Beneficiary Mitigation Plan (Plan) prepared as set forth in the Trust  
51 agreement and submitted by the Department of Environmental Quality to the General Assembly

1 pursuant to the Settlement Directives. The funds appropriated in this act shall be allocated for the  
 2 following purposes set forth in Phase 1 of the Plan:

- 3 (1) Diesel bus and vehicle replacements or upgrades.
- 4 (2) Zero emissions vehicle infrastructure – Level 2 charging stations.
- 5 (3) Zero emissions vehicle infrastructure – DC fast charging stations.

6 The Department of Environmental Quality in its capacity as the lead agency designated under  
 7 the procedures set forth in the Trust agreement may transfer and use up to one million five  
 8 hundred thirty-four thousand ninety-four dollars (\$1,534,094) for administrative purposes in  
 9 executing the Plan.

10 Funds remaining from Phase 1 of the Plan that are unobligated and unencumbered at the end  
 11 of the 2019-2021 fiscal biennium shall be returned to the Trustee by the Department of  
 12 Environmental Quality as set forth in the Trust agreement.

13  
 14 **PART IV. WATER RESOURCES DEVELOPMENT PROJECTS**

15 **SECTION 11.(a)** Transfers. – Notwithstanding G.S. 143-215.73F and no later than  
 16 August 15, 2020, the Department of Environmental Quality shall transfer the sum of twelve  
 17 million two hundred eighty-three thousand six hundred fifty-seven dollars (\$12,283,657) in  
 18 nonrecurring funds from the cash balance in the Shallow Draft Navigation Channel Dredging  
 19 and Aquatic Weed Fund (Budget Code: 24300; Fund Code: 2182) to the Division of Water  
 20 Resources. No later than August 15, 2020, the Department of Commerce shall transfer the sum  
 21 of twelve million two hundred eighty-three thousand six hundred fifty-seven dollars  
 22 (\$12,283,657) in nonrecurring funds from the cash balance in the Film and Entertainment Grant  
 23 Fund (Budget Code: 24609; Fund Code: 2590) to the Division of Water Resources of the  
 24 Department of Environmental Quality.

25 **SECTION 11.(b)** Appropriation and Allocation. – The funds transferred by this  
 26 section are appropriated to the Division of Water Resources of the Department of Environmental  
 27 Quality, which shall allocate funds for water resources development projects in accordance with  
 28 the schedule that follows. The amounts set forth in the schedule include funds appropriated in  
 29 this act for water resources development projects and funds carried forward from previous fiscal  
 30 years in accordance with subsection (b) of this section. These funds will provide a State match  
 31 for an estimated eighty-two million three hundred ninety-six thousand nine hundred seventy-nine  
 32 dollars (\$82,396,979) in federal funds.

34	<b>Name of Project</b>	<b>2020-2021</b>
35		
36	(1) Princeville Flood Damage Reduction (Pre-Constr./Design)	\$3,465,000
37	(2) Carolina Beach CSRM	1,750,000
38	(3) Kure Beach CSRM	2,187,500
39	(4) Wrightsville Beach CSRM	–
40	(5) Ocean Isle CSRM	–
41	(6) Planning Assistance to Communities	–
42	(7) Wilmington Harbor DA Maintenance	5,906,450
43	(8) Morehead City Maintenance	–
44	(9) Surf City/North Topsail CSRM (Pre-Constr./Design)	12,500,000
45	(10) Dan River Regional Water Supply Project	34,000
46	(11) Carteret County (Bogue Banks) CSRM	2,567,320
47	(12) Neuse River-Goldsboro Sec. 1135, CAP, Project Mods. (50/50)	–
48	(13) Concord Streams, Sec. 206, CAP, Ecosystem Restoration,	
49	Stricker Branch, Constr. (65/35)	–
50	(14) Lumberton 205, CAP, Flood Damage Reduction (50/50)	–
51	(15) B. Everette Jordan Reservoir Water Supply	–

1 (16) North Topsail Beach Shoreline Protection – Phase 2 –  
 2 **TOTALS** **\$28,410,270**

3  
 4 **SECTION 11.(c)** Carryforward. – It is the intent of the General Assembly that funds  
 5 carried forward from previous fiscal years be used to supplement the twenty-four million five  
 6 hundred sixty-seven thousand three hundred fourteen dollars (\$24,567,314) allocated for water  
 7 resources development projects in this section. Therefore, the following funds carried forward  
 8 from previous fiscal years shall be used for the following projects:  
 9

10	<b>Name of Project</b>	<b>Amount Carried Forward</b>
11		
12	(1) Princeville Flood Damage Reduction (Pre-Constr./Design)	\$1,400,000
13	(2) Morehead City Harbor Maintenance	1,872,000
14	(3) Kure Beach CSRM	1,031,854
15	(4) Wrightsville Beach CSRM	2,100,000
16	(5) Carolina Beach CSRM	906,354
17	(6) Ocean Isle CSRM	
18	(7) Carteret County (Bogue Banks) CSRM	28,513
19	(8) Wilmington Harbor DA Maintenance	735
20	(7) Planning Assistance to Communities	244,613
21	(8) Surf City/North Topsail CSRM (Pre-Constr./Design)	475,500
22	(10) Neuse River-Goldsboro Sec. 1135, CAP, Project Mods. (50/50)	333,000
23	(11) Concord Streams, Sec. 206, CAP, Ecosystem Restoration,	
24	Stricker Branch, Constr. (65/35)	1,023,000
25	(12) Lumberton 205, CAP, Flood Damage Reduction (50/50)	125,000
26	(13) B. Everette Jordan Reservoir Water Supply	1,816,466
27	(14) North Topsail Beach Shoreline Protection – Phase 2	1,500,000
28	<b>TOTALS</b>	<b>\$12,857,035</b>

29  
 30 **SECTION 11.(d)** Fund Flexibility. – Where the actual costs are different from the  
 31 estimated costs under subsection (b) of this section, the Department may adjust the allocations  
 32 among projects as needed. If any projects funded under subsection (b) of this section are delayed  
 33 and the budgeted State funds cannot be used during the 2020-2021 fiscal year or if the projects  
 34 funded under subsection (b) of this section are accomplished at a lower cost, the Department may  
 35 use the resulting fund availability to fund any of the following:

- 36 (1) U.S. Army Corps of Engineers project feasibility studies.
- 37 (2) U.S. Army Corps of Engineers projects whose schedules have advanced and
- 38 require State matching funds in the 2020-2021 fiscal year.
- 39 (3) State-local water resources development projects.

40 **SECTION 11.(e)** Reports. – The Department shall submit semiannual reports on the  
 41 use of these funds to the Joint Legislative Oversight Committee on Agriculture and Natural and  
 42 Economic Resources, the Fiscal Research Division, and the Office of State Budget and  
 43 Management on or before March 1 and September 1. Each report shall include all of the  
 44 following:

- 45 (1) All projects listed in this section.
- 46 (2) The estimated cost of each project.
- 47 (3) The date that work on each project began or is expected to begin.
- 48 (4) The date that work on each project was completed or is expected to be
- 49 completed.
- 50 (5) The actual cost of the project.

1           The semiannual reports also shall show those projects advanced in schedule and those  
2 projects delayed in schedule.

3           **SECTION 11.(f)** Maximum Share. – Notwithstanding any provision of law to the  
4 contrary, funds appropriated for a water resources development project shall be used to provide  
5 no more than fifty percent (50%) of the nonfederal portion of funds for the project. This  
6 subsection applies to funds appropriated in this act and to funds appropriated prior to the  
7 2019-2021 fiscal biennium that are unencumbered and proposed for reallocation to provide the  
8 nonfederal portion of funds for water resources development projects. The limitation on fund  
9 usage contained in this subsection applies only to projects in which a local government or local  
10 governments participate.

## 11 **PART V. GENERAL PROVISIONS**

### 12 **STATE BUDGET ACT APPLIES**

13  
14           **SECTION 12.** The provisions of the State Budget Act, Chapter 143C of the General  
15 Statutes, are reenacted and shall remain in full force and effect and are incorporated in this act  
16 by reference.  
17

### 18 **ADDITIONAL LIMITATIONS AND DIRECTIONS**

19           **SECTION 13.** Except where expressly repealed or amended by this act, the  
20 provisions of any other legislation enacted during the 2019 Regular Session of the General  
21 Assembly expressly appropriating funds to an agency, a department, or an institution covered  
22 under this act shall remain in effect.  
23

## 24 **PART IV. EFFECTIVE DATE**

25           **SECTION 14.** Except as otherwise specified, this act becomes effective July 1, 2020.  
26