

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2023

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SENATE BILL 515  
PROPOSED COMMITTEE SUBSTITUTE S515-PCS35257-TQf-16

Short Title: Water and Sewer Affordability Act.

(Public)

Sponsors:

Referred to:

April 4, 2023

1 A BILL TO BE ENTITLED  
2 AN ACT TO LENGTHEN THE TIME FOR WHICH THE UTILITIES COMMISSION MAY  
3 SUSPEND PROPOSED RATES OF A PUBLIC UTILITY AND WATER AND SEWER  
4 INVESTMENT PLAN IMPLEMENTATION PENDING INVESTIGATION, TO  
5 REQUIRE LOCAL GOVERNMENT WATER AND SEWER SERVICE PROVIDERS TO  
6 DETERMINE IF THE SALE OF A WATER OR SEWER SYSTEM IS IN THE PUBLIC  
7 INTEREST, AND TO LIMIT WATER AND SEWER SURCHARGES FOR CUSTOMERS  
8 OUTSIDE THE JURISDICTIONAL BOUNDARIES OF THE UNIT OF LOCAL  
9 GOVERNMENT PROVIDING THE WATER OR SEWER SERVICE.

10 The General Assembly of North Carolina enacts:

11 **SECTION 1.** G.S. 62-133.1B(e) reads as rewritten:

12 "(e) The Commission shall, after notice and an opportunity for interested parties to be  
13 heard, issue an order ruling on the water or sewer utility's request to adjust base rates under  
14 G.S. 62-133, denying or approving, with or without modifications, a water or sewer utility's  
15 proposed Water and Sewer Investment Plan. The Commission may suspend the effect of the  
16 proposed base rates and the Water and Sewer Investment Plan implementation pending  
17 investigation in the same manner as provided in G.S. 62-134(b), provided that the Commission  
18 may suspend the implementation of the proposed base rates for no longer than 300 days. An  
19 approved plan shall be effective no later than the end of the maximum suspension period pursuant  
20 to G.S. 62-134(b).period."

21 **SECTION 2.** Article 1 of Chapter 162A of the General Statutes is amended by  
22 adding a new section to read:

23 "**§ 162A-19.1. Sale of a public water or sewer system.**

24 (a) For purposes of this section, "local government service provider" means any of the  
25 following:

26 (1) A county.

27 (2) A city.

28 (3) A water and sewer authority created under Article 1 of Chapter 162A of the  
29 General Statutes.

30 (4) A metropolitan sewerage district created under Article 5 of Chapter 162A of  
31 the General Statutes.

32 (5) A sanitary district created under Part 2 of Article 2 of Chapter 130A of the  
33 General Statutes.

34 (6) A county water and sewer district created under Article 6 of Chapter 162A of  
35 the General Statutes.



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1           (7)    A metropolitan water district created under Article 4 of Chapter 162A of the  
2                General Statutes.

3           (8)    A metropolitan water and sewerage district created under Article 5A of  
4                Chapter 162A of the General Statutes.

5           (b)    No local government service provider may sell to a private company a water or sewer  
6                system that provides service to the public until the governing body of the local government  
7                service provider has held a public hearing on the sale and made a determination that the sale is  
8                in the public interest. In determining if the sale is in the public interest, the local government  
9                service provider shall consider, at a minimum, all of the following:

10           (1)    The physical condition of the water or sewer system being sold.

11           (2)    The capital replacements, additions, expansions, and repairs needed to provide  
12                reliable service and meet all applicable federal standards.

13           (3)    The availability of federal and State grants and loans for system upgrades and  
14                repairs.

15           (4)    The willingness and the ability of the purchaser to make system upgrades and  
16                repairs and provide high-quality and cost-effective service.

17           (5)    The reasonableness of the contract sale price and terms.

18           (6)    The most recent income and expense statement and asset and liabilities  
19                balance sheet of the purchaser.

20           (7)    The purchaser's existing rate base and projected rates over the next three years.

21           (8)    The affordability of the projected rates for the next three years for customers  
22                serviced by the system, based on the income levels of the customer base.

23           (9)    The alternatives to the sale and the potential impact on utility customers if the  
24                sale is not made.

25           (c)    The local government service provider shall prepare a statement showing that the sale  
26                is in the public interest, including a summary of the purchaser's experience in water or sewer  
27                utility operation and a showing of financial ability to provide the service.

28           (d)    All moneys paid by a private company to a local government service provider for the  
29                purchase of a water system or sewer system shall be used for the purpose of debt reduction for  
30                the system, if applicable; repayment of federal grant awards associated with the system as may  
31                be required by federal law or regulation; investment in local water, wastewater, or stormwater  
32                infrastructure or programs; or reducing or offsetting water and sewer service rates."

33           **SECTION 3.** Article 1 of Chapter 162A of the General Statutes is amended by  
34 adding a new section to read:

35           "§ 162A-19.2. Limitation on water and sewer rates charged to customers outside the  
36                jurisdictional boundaries of the provider.

37           (a)    For purposes of this section, "local government service provider" means any of the  
38                following:

39           (1)    A county.

40           (2)    A city.

41           (3)    A water and sewer authority created under Article 1 of Chapter 162A of the  
42                General Statutes.

43           (4)    A metropolitan sewerage district created under Article 5 of Chapter 162A of  
44                the General Statutes.

45           (5)    A sanitary district created under Part 2 of Article 2 of Chapter 130A of the  
46                General Statutes.

47           (6)    A county water and sewer district created under Article 6 of Chapter 162A of  
48                the General Statutes.

49           (7)    A metropolitan water district created under Article 4 of Chapter 162A of the  
50                General Statutes.

1           (8) A metropolitan water and sewerage district created under Article 5A of  
2           Chapter 162A of the General Statutes.

3           (b) Any local government service provider establishing an increase in the rates, fees, or  
4           charges for water or sewer system customers outside of the local government service provider's  
5           jurisdictional boundaries may impose rates, fees, and charges that exceed the charges to  
6           customers inside its boundaries. Such charges must be just and equitable and based on the same  
7           factors used in fixing the rates, fees, and charges for customers inside the boundaries of the local  
8           government service provider. Notwithstanding G.S. 130A-64.1, 153A-277(a1)(1),  
9           160A-314(a1)(1), and 162A-9(a), if the total of all rates, fees, and charges, excluding tap fees  
10           and impact fees, does not exceed twenty-five percent (25%) of the rates, fees, and charges to  
11           customers inside its boundaries, the local government service provider shall not be required to  
12           hold a public hearing except as may be provided for service to customers inside the boundaries  
13           of the local government service provider. If the total of all rates, fees, and charges, excluding tap  
14           fees and impact fees, exceeds twenty-five percent (25%) of the rates, fees, and charges to  
15           customers inside its boundaries, the local government service provider shall hold a public hearing  
16           and demonstrate that the rates, fees, and charges are just and equitable and based on the same  
17           factors used in fixing the rates, fees, and charges for customers inside its boundaries. This section  
18           shall not be construed to prohibit a local government service provider from charging a tap fee or  
19           impact fee separate from the provisions of this subsection."

20           **SECTION 4.(a)** G.S. 153A-277(a) reads as rewritten:

21           "(a) A county may establish and revise from time to time schedules of rents, rates, fees,  
22 charges, and penalties for the use of or the services furnished or to be furnished by a public  
23 enterprise. Schedules of rents, rates, fees, charges, and penalties may vary for the same class of  
24 service in different areas of the county and may vary according to classes of service, and different  
25 schedules may be adopted for services provided outside of the county. However, for purposes of  
26 water and sewer services, a county may not charge rates, fees, and charges in excess of those  
27 allowed by G.S. 162A-19.2. A county may include a fee relating to subsurface discharge  
28 wastewater management systems and services on the property tax bill for the real property where  
29 the system for which the fee is imposed is located."

30           **SECTION 4.(b)** G.S. 160A-58.5 reads as rewritten:

31           "**§ 160A-58.5. Special rates for water, sewer and other enterprises.**

32           For the purposes of G.S. 160A-314, provision of public enterprise services within satellite  
33 corporate limits shall be considered provision of service for special classes of service distinct  
34 from the classes of service provided within the primary corporate limits of the city, and the city  
35 may fix and enforce schedules of rents, rates, fees, charges and penalties in excess of those fixed  
36 and enforced within the primary corporate limits. A city providing enterprise services within  
37 satellite corporate limits shall annually review the cost thereof, and shall take such steps as may  
38 be necessary to insure that the current operating costs of such services, excluding debt service on  
39 bonds issued to finance services within satellite corporate limits, does not exceed revenues  
40 realized therefrom. However, for purposes of water and sewer services, a city may not charge  
41 rates, fees, and charges in excess of those allowed by G.S. 162A-19.2."

42           **SECTION 4.(c)** G.S. 160A-314(a) reads as rewritten:

43           "(a) A city may establish and revise from time to time schedules of rents, rates, fees,  
44 charges, and penalties for the use of or the services furnished or to be furnished by any public  
45 enterprise. Schedules of rents, rates, fees, charges, and penalties may vary according to classes  
46 of service, and different schedules may be adopted for services provided outside the corporate  
47 limits of the city. However, for purposes of water and sewer services, a city may not charge rates,  
48 fees, and charges in excess of those allowed by G.S. 162A-19.2."

49           **SECTION 4.(d)** G.S. 162A-6(a)(9) reads as rewritten:

50           "(9) To fix and revise from time to time and to collect rates, fees and other charges  
51 for the use of or for the services and facilities furnished by any system

1 operated by the authority, including rates for water stored by the authority  
2 through programs to store and protect water resources in the region served by  
3 the authority. Schedules of rates, fees, and other charges may vary according  
4 to classes of service for programs to store and protect water resources.  
5 However, an authority may not charge customers outside the boundaries of  
6 the authority rates, fees, and other charges in excess of those allowed by  
7 G.S. 162A-19.2. For purposes of this subdivision, "programs to store and  
8 protect water resources" includes aquifer or surficial storage."

9 **SECTION 4.(e)** G.S. 162A-36(a)(8) reads as rewritten:

10 "(8) To fix and revise from time to time and to collect rents, rates, fees and other  
11 charges for the use of the services and facilities furnished by any water or  
12 sewerage ~~system;~~system, provided, however, that a district may not charge  
13 customers outside the boundaries of the district rates, fees, and other charges  
14 in excess of those allowed by G.S. 162A-19.2;"

15 **SECTION 4.(f)** G.S. 162A-69(8) reads as rewritten:

16 "(8) To fix and revise from time to time and to collect rents, rates, fees and other  
17 charges for the use of or for the services and facilities furnished by any  
18 sewerage ~~system;~~system, provided, however, that a district may not charge  
19 customers outside the boundaries of the district rates, fees, and other charges  
20 in excess of those allowed by G.S. 162A-19.2;"

21 **SECTION 4.(g)** G.S. 162A-87.3(b) reads as rewritten:

22 "(b) A county water and sewer district may provide a different schedule of rents, rates,  
23 fees, and charges for services provided outside the district. However, a county water and sewer  
24 district may not charge customers outside the district rates, fees, and other charges in excess of  
25 those allowed by G.S. 162A-19.2."

26 **SECTION 5.** Section 1 of this act is effective when it becomes law and applies to  
27 rate schedules filed on or after that date. Section 2 of this act is effective when it becomes law  
28 and applies to contracts for sales of water systems executed on or after that date. Section 3 of this  
29 act is effective when it becomes law and applies to rates established on or after that date. The  
30 remainder of this act is effective when it becomes law.