

GENERAL ASSEMBLY OF NORTH CAROLINA
1987 SESSION

CHAPTER 490
HOUSE BILL 747

AN ACT TO REQUIRE A WATER OR SEWER UTILITY COMPANY TO POST A
BOND.

The General Assembly of North Carolina enacts:

Section 1. G.S. 62-18(b) reads as rewritten:

"(b) ~~All~~ Except as provided in G.S. 62-110.3, all license fees and seal taxes, all money received from fines and penalties, and all other fees paid into the office of the Utilities Commission shall be turned in to the State treasury."

Sec. 2. A new section is added to Chapter 62 of the General Statutes to read:

"§ 62-110.3. Bond required for water and sewer companies.—(a) No franchise may be granted to any water or sewer utility company until the applicant furnishes a bond, secured with sufficient surety as approved by the Commission, in an amount not less than ten thousand dollars (\$10,000) nor more than two hundred thousand dollars (\$200,000). The bond shall be conditioned upon providing adequate and sufficient service within all the applicant's service areas, including those for which franchises have previously been granted, shall be payable to the Commission, and shall be in a form acceptable to the Commission. In setting the amount of a bond, the Commission shall consider:

- (1) whether the applicant holds other water or sewer franchises in this State, and if so its record of operation,
- (2) the number of customers the applicant now serves and proposes to serve,
- (3) the likelihood of future expansion needs of the service,
- (4) if the applicant is acquiring an existing company, the age of the equipment, and
- (5) any other relevant factors.

Any interest earned on a bond shall be payable to the water or sewer company that posted the bond.

(b) The Commission shall not require an applicant to post the bond required by subsection (a) if:

- (1) the applicant has posted a bond for the water or sewer system with another State government agency and the Commission finds that that bond satisfies the purposes of this section; or
- (2) the applicant has posted bonds for other water or sewer systems with the Commission totalling two hundred thousand dollars (\$200,000).

(c) The utility, the Public Staff, the Attorney General, and any other party may, at any time after the amount of a bond is set, apply to the Commission to raise or lower the amount based on changed circumstances.

(d) The appointment of an emergency operator, either by the superior court in accordance with G.S. 62-118(b) or by the Commission with the consent of the owner or operator, operates to forfeit the bond required by this section. The court or Commission, as appropriate, shall determine the amount of money needed to alleviate the emergency and shall order that amount of the bond to be paid to the Commission as trustee for the water or sewer system.

(e) If the person who operated the system before the emergency was declared desires to resume operation of the system upon a finding that the emergency no longer exists, the Commission shall require him to post a new bond, the amount of which may be different from the previous bond."

Sec. 3. This act is effective upon ratification and applies to all franchises granted by the Utilities Commission on and after that date.

In the General Assembly read three times and ratified this the 26th day of June, 1987.