

GENERAL ASSEMBLY OF NORTH CAROLINA
1995 SESSION

CHAPTER 28
SENATE BILL 207

AN ACT TO MODIFY THE BOND REQUIREMENTS FOR PUBLIC UTILITIES
PROVIDING WATER OR SEWER SERVICES AS RECOMMENDED BY THE
JOINT LEGISLATIVE UTILITY REVIEW COMMITTEE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 62-110.3 reads as rewritten:

"§ 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).~~ (\$10,000). 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:~~ consider and make appropriate findings as to the following:

- (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~~ age, ~~condition, and type of~~ condition, and type of the equipment, and
- (5) Any other relevant ~~factors.~~ factors, including the design of the system.

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).~~

(b) Notwithstanding the provisions of G.S. 62-110(a) and subsection (a) of this section, no water or sewer utility shall extend service into territory contiguous to that already occupied without first having advised the Commission of such proposed

extension. Upon notification, the Commission shall require the utility to furnish an appropriate bond, taking into consideration both the original service area and the proposed extension. This subsection shall apply to all service areas of water and sewer utilities without regard to the date of the issuance of the franchise.

(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. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified this the 10th day of April, 1995.

Dennis A. Wicker
President of the Senate

Harold J. Brubaker
Speaker of the House of Representatives