

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009**

**SESSION LAW 2010-144
HOUSE BILL 1746**

AN ACT TO: (1) DIRECT THE DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES, IN CONJUNCTION WITH OTHER INTERESTED PARTIES, TO ESTABLISH A TASK FORCE TO DEVELOP A STATEWIDE SURVEY TO SUPPLEMENT THE CURRENT INFORMATION USED TO ASSESS THE STATE'S WATER AND WASTEWATER INFRASTRUCTURE NEEDS, DEVELOP A PLAN FOR INCORPORATING THE INFORMATION COMPILED FROM THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY SURVEY INTO THE STATE WATER SUPPLY PLAN, AND DEVELOP RECOMMENDATIONS REGARDING A STATEWIDE WATER AND WASTEWATER INFRASTRUCTURE RESOURCE AND FUNDING DATABASE; AND (2) DIRECT THE DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES AND THE LOCAL GOVERNMENT COMMISSION OF THE DEPARTMENT OF STATE TREASURER TO JOINTLY EVALUATE THE POTENTIAL BENEFITS OF MONITORING THE FINANCIAL CONDITION OF PUBLIC WATER SYSTEMS AND WASTEWATER SYSTEMS, AS RECOMMENDED BY THE LEGISLATIVE STUDY COMMISSION ON WATER AND WASTEWATER INFRASTRUCTURE.

Whereas, the two primary sources of data currently available to determine the State's water and wastewater needs include the United States Environmental Protection Agency surveys of publicly owned water and wastewater systems conducted every four years by the Department of Environment and Natural Resources and the North Carolina Rural Economic Development Center Water 2030 Initiative; and

Whereas, the Water 2030 Initiative, completed in 2005, provides a snapshot of projected water and wastewater infrastructure needs through 2030, but was funded as a onetime overview, and has not been fully updated since 2005; and

Whereas, while both the United States Environmental Protection Agency surveys and Water 2030 Initiative are useful tools, there continue to be gaps in the information used to determine the State's water and wastewater infrastructure needs, particularly with regard to economic development and growth-related infrastructure needs, water system efficiency measures, and costs related to the development of new water sources; Now, therefore,

The General Assembly of North Carolina enacts:

SECTION 1.(a) Task Force. – The Department of Environment and Natural Resources, the Department of Commerce, the Department of State Treasurer, the Clean Water Management Trust Fund, the State Water Infrastructure Commission, the Office of Information Technology Services, the North Carolina League of Municipalities, the North Carolina Association of County Commissioners, the Rural Economic Development Center, and the Environmental Finance Center at the School of Government at the University of North Carolina at Chapel Hill shall establish a task force to improve the collection and utilization of information related to State water and wastewater infrastructure needs. The Department of Environment and Natural Resources shall be the lead agency for the task force. The task force



may also work with other interested stakeholders in its discretion. The responsibilities and duties of the task force shall include all of the following:

- (1) To develop a statewide survey to build on the base of the existing United States Environmental Protection Agency water and wastewater infrastructure survey process that will provide a more accurate assessment of statewide water and wastewater infrastructure needs.
 - a. The survey shall be designed to address the following information gaps that have been identified in the current information sources:
 1. Information on water and wastewater infrastructure needs related to economic development and population growth.
 2. Information on water and wastewater system service areas.
 3. Information on drinking water needs relevant to determining the need and the cost of proposed reservoir construction.
 4. Information on infrastructure needs to address failing water and wastewater systems.
 5. Information on the infrastructure needs related to water system efficiency to address the issue of water loss.
 - b. The task force shall consider how often the information provided by the survey should be updated.
 - c. The task force shall consider requesting information to update the Water 2030 Initiative as part of the survey design.
 - d. The task force shall consider how often to update the survey, and how best to formulate and summarize the survey results on the State's combined water and wastewater infrastructure needs in a concise and easily understood format for use by the General Assembly. The task force shall prepare a model report based on this format.
- (2) To develop a plan to incorporate relevant information obtained from the existing United States Environmental Protection Agency survey and any statewide survey developed pursuant to subdivision (1) of this section into the State water supply plan developed pursuant to G.S. 143-355(m). In devising the plan to incorporate the needs survey information into the State water supply plan, the task force shall consider possible modifications to the information collected as part of the local water supply plans or the methodology used to prepare the local water supply plans that would make it easier to incorporate the needs survey information into the State water supply plan.
- (3) To recommend a plan for the establishment and maintenance of a statewide water and wastewater infrastructure resource and funding database, or alternative information systems or processes that are capable of consolidating and integrating statewide information on water and wastewater infrastructure needs, resources, and funding and making this information more accessible to applicants, government agencies, and policymakers. The task force shall consider the relative merits of a database and any proposed alternatives, taking into account estimated costs and the ability of each to meet the goals outlined in this section. In analyzing a database, the task force shall identify options for database system design and structure and delineate the categories of information to be compiled and indexed.

SECTION 1.(b) Task Force Report. – The Department of Environment and Natural Resources shall report the findings and recommendations of the task force to the Legislative Study Commission on Water and Wastewater Infrastructure by November 1, 2010.

The report shall include the estimated cost to implement the recommendations and any legislative changes required to implement the recommendations.

SECTION 2.(a) The Department of Environment and Natural Resources and the Local Government Commission of the Department of State Treasurer shall jointly evaluate the costs and benefits of requiring each public water system or wastewater system in the State to demonstrate that the system raises sufficient revenue to cover the costs associated with proper operation of the system, including the costs of maintenance, repair, and replacement of collection, treatment, and distribution infrastructure.

- (1) The Department of Environment and Natural Resources and the Local Government Commission shall specifically consider increasing their oversight role to include the following actions:
 - a. Review grant applications submitted by a system to determine the portion of the proposed grant match that is funded from local revenues as opposed to another grant.
 - b. Develop benchmarks that a system must meet to ensure that the system is operating in a financially sound manner.
- (2) The Department of Environment and Natural Resources and the Local Government Commission shall specifically evaluate the desirability of requiring each public water system and wastewater system in the State to conduct the following actions:
 - a. Submit an annual audit statement to State water and wastewater infrastructure funding agencies to which the system is applying for loan or grant funds for the purpose of reporting on the operation of the system and to demonstrate whether the water or wastewater rates of each system are sufficient to maintain system operations and meet debt service obligations.
 - b. Implement remedial measures in the event that the audit statement indicates a shortfall, including the submission of a written explanation for the revenue shortfall from the governing body of the system and the development of a plan to ensure that system revenues cover system costs.
 - c. Maintain a capital reserve fund.
 - d. Provide notification to funding agencies when a system is failing to operate in compliance with applicable State and federal water quality standards.
- (3) The Department of Environment and Natural Resources and the Local Government Commission shall identify and consider other actions or measures that would improve the oversight of the financial condition of public water systems and wastewater systems.

SECTION 2.(b) For the purposes of this act, "public water system" has the same meaning as in G.S. 130A-313(10), and "wastewater system" has the same meaning as in G.S. 159G-20(25).

SECTION 2.(c) The Department of Environment and Natural Resources and the Local Government Commission shall jointly report their findings and recommendations to the Legislative Study Commission on Water and Wastewater Infrastructure no later than November 1, 2010.

SECTION 3. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 8th day of July, 2010.

s/ Walter H. Dalton

President of the Senate

s/ Joe Hackney
Speaker of the House of Representatives

s/ Beverly E. Perdue
Governor

Approved 1:54 p.m. this 22nd day of July, 2010