



# SENATE BILL 536: Water/Wastewater Public Enterprise Reform.

2019-2020 General Assembly

<b>Committee:</b>	Senate Agriculture/Environment/Natural Resources. If favorable, re-refer to Finance. If favorable, re-refer to Rules and Operations of the Senate	<b>Date:</b>	May 22, 2019
<b>Introduced by:</b>	Sen. Newton	<b>Prepared by:</b>	Erika Churchill Staff Attorney
<b>Analysis of:</b>	First Edition		

**OVERVIEW:** *Senate Bill 536 would do all of the following:*

- *Establish a process for identifying distressed public water systems and wastewater systems.*
- *Establish the Viable Utility Fund, within the Department of Environmental Quality, to be used for assisting public water and wastewater systems to become self-sustaining, funded by a surcharge on all customers of public water and public wastewater systems.*
- *Establish a process for a water or wastewater system created under Chapter 162 of the General Statutes to request merger or dissolution of that system.*
- *Encourage interlocal cooperation between public water and wastewater systems.*

[As introduced, this bill was identical to H570, as introduced by Reps. McGrady, Hanig, which is currently in House Energy and Public Utilities.]

### CURRENT LAW & BILL ANALYSIS:

#### Sections 1-2.

The Division of Water Infrastructure (Division), part of the Department of Environmental Quality (DEQ), administers programs to provide grants and low-interest loans to local government units for water and wastewater infrastructure projects. The State Water Infrastructure Authority (SWIA) consists of nine members, is within the Division, and is tasked with, among other things:

- Establishing priorities for making loans and grants.
- Developing a master plan to meet the State's water infrastructure needs.
- Determining the rank of applications and to select the applications eligible to receive loans and grants.

In addition to federal programs such as the Community Development Block Grant, the Division and SWIA administer the Clean Water State Revolving Fund and the Drinking Water State Revolving Fund.

The Local Government Commission (LGC), composed of nine members, provides assistance to local governments and public authorities, approves the issuance of debt for all units of local government, and assists those units with fiscal management.

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# Senate Bill 536

Page 2

**Section 1**, effective October 1, 2019, of the bill would do the following:

- Require SWIA, with the Local Government Commission (LGC), to develop criteria to determine how to assess distressed units of local government. A distressed unit is 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."
- Require a local government identified as a distressed unit to do all of the following:
  - Conduct an asset assessment and rate study.
  - Participate in a training and educational program. Attendance would be mandatory for governing board members and any staff whose participation is required by SWIA and the LGC.
  - Develop an action plan, taking into consideration all of the following:
    - A short term and a long term plan for infrastructure repair, maintenance, and management.
    - Continuing education of the governing board and system operating staff.
    - Long term financial management to ensure the public water system or public wastewater system will generate sufficient revenue to adequately fund management and operations, personnel, appropriate levels of maintenance, and reinvestment that facilitate the provision of reliable water or wastewater services.
    - Any other matters identified by SWIA, the Department, or the LGC.
- Establish the Viable Utility Reserve, from which grants may be awarded to accomplish any of the following:
  - Provide physical interconnection and extension of public water or wastewater infrastructure to provide regional service.
  - Rehabilitate existing public water or wastewater infrastructure.
  - Decentralize an existing public water system or wastewater system into smaller viable parts.
  - Fund a study of rates, asset inventory and assessment, or merger and regionalization options.
  - Fund other options deemed feasible which results in local government units 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.

**Section 2**, effective October 1, 2019 with a sunset of June 30, 2029, of the bill would establish a surcharge of \$1.00 per account per month on each active account of a public water system or public wastewater system to fund the Viable Utility Reserve.

# Senate Bill 536

Page 3

**Section 3.** Under the General Statutes, there are multiple processes by which a public water or public wastewater system may be established. Chapter 162A of the General Statutes, Water and Sewer Systems, contains several of those processes. However, there are currently no mechanisms contained within Chapter 162A of the General Statutes to allow for dissolution or merger of those systems established under that Chapter.

**Section 3**, effective October 1, 2019, of the bill would establish a process by which a public water or public wastewater system established under Chapter 162A of the General Statutes could merge, or be dissolved, as initiated by the public water or public wastewater system.

**Section 4.** Under the General Statutes, counties and cities are authorized to join together to execute any undertaking through an interlocal agreement. The agreement itself controls the responsibilities and duties of each county or city party to the agreement.

**Section 4** would specifically authorize interlocal agreements between local government units operating a public water system or public wastewater system.

**Section 5** would require the DEQ to study sub-basin transfers and make recommendations as to whether the statutes, or rules, should be amended. The study is to specifically examine whether transfers of water between sub-basins within the same major river basin should continue to be required to comply with all of the same requirements under G.S. 143-215.22L as transfers of water between major river basins. The results of the study are to be submitted to the Environmental Review Commission by October 1, 2019.

**Section 6** would require the Treasurer and Secretary of State to study the issue of historical charters for municipalities that have become, or are on the brink of becoming, defunct. The results of the study are to be submitted to the General Assembly by March 1, 2020.

**EFFECTIVE DATE:** Except as otherwise noted, effective when it becomes law.