



HOUSE BILL 777: Various Retirement Chngs/Wastewater Reform.

2019-2020 General Assembly

Committee:	Senate Pensions and Retirement and Aging. If favorable, re-refer to Rules and Operations of the Senate	Date:	June 12, 2019
Introduced by:	Reps. Belk, Gill, Hurley, Martin	Prepared by:	Tawanda N. Foster
Analysis of:	PCS to First Edition H777-CSTVp-34		Committee Counsel

OVERVIEW: *The PCS for House Bill 777 does the following:*

- *Amends the current law on the purchase of omitted membership service in the Teachers' and State Employees' Retirement System (TSERS) and the Local Governmental Employees' Retirement System (LGERS).*
- *Makes changes to the unclaimed property statutes.*
- *Requires stress testing for TSERS as recommended by the Pew Foundation.*
- *Makes technical corrections to TSERS, LGERS, the Consolidated Judicial Retirement System (CJRS), the North Carolina National Guard Pension Fund, the North Carolina Public School Teachers' and Professional Educators' Investment Plan, and the State Health Plan.*
- *Improves the viability of water and waste water systems of certain units of local governments by requiring local government commission approval of grant applications;*
- *Requires certain water and waste water systems to undergo a review of infrastructure management, organizational management, and financial management;*
- *Creates the viable utility reserve to provide grant money for local government units*
- *Provides a statutory process for merger and dissolution of water and waste water systems established under Chapter 162A of the General Statutes*
- *Promotes the importance of interlocal agreements to the operation of water and waste water systems; and*
- *Requires the study of sub-basin transfers and historical charters.*

PART I. OMITTED MEMBERSHIP SERVICE

Section 1 amends the omitted membership service sub-sections of the creditable service statutes in TSERS (G.S. 135-4(v)) and LGERS (G.S. 128-26(m)) by adding language to allow an individual who was not eligible to earn membership service in the previous year because that person was classified as part-time in error, to purchase the omitted service for that calendar year. The individual must request a written report from the employer of the total hours worked in the preceding 12 months in a position classified as part-time. If the employee was classified as part-time in error and pays a lump sum equal to the applicable

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employee contributions within one year of the omission, then the employer must pay the applicable employer contributions.

This section becomes effective January 1, 2021, and would apply to the purchase of service for work performed on or after January 1, 2020.

PART II. UNCLAIMED REAL AND PERSONAL PROPERTY

Part II of the PCS for House Bill 777 creates a new Article in Chapter 116B of the General Statutes governing the Treasurer's authority over escheated property, moves the rules for escheated property into this new Article, and declares a purpose for this new Article. This Part also makes administrative changes including: explicitly stating the Treasurer is not responsible for value changes while holding noncash assets; authorizing the Treasurer to seek a court order to deliver funds; updating filing requirements for holders of unclaimed property; and explicitly authorizing refunds of property erroneously paid to the Treasurer.

CURRENT LAW: Chapter 116B of the General Statutes authorizes the State Treasurer to handle property that escheats to the State. Examples of property that can escheat include bank accounts, wages, utility deposits, insurance policy proceeds, stocks, bonds, and contents of safe deposit boxes. Earnings on the escheat funds are given to the North Carolina State Educational Assistance Authority.

BILL ANALYSIS: This Part of the PCS for H777 creates a new Article 1A of Chapter 116B of the General Statutes titled "Escheats" and move the existing statutes into the new Article. The General Assembly declares the purpose of the new Article as follows:

The policy of the State is to recover and transfer property to rightful owners in a manner that is consistent with the interest of the rightful owners. Where the rightful owner cannot be appropriately determined, it is the policy of the State that all benefits realized from any unclaimed or abandoned property shall accrue to the benefit of higher education for the residents of the State. This Chapter shall be liberally interpreted in a manner that fulfills these purposes."

Part II of the PCS also makes the following administrative changes to the existing escheat statutes:

- Explicitly stating the Treasurer is not responsible for "loss" in value of noncash property. Current law states the Treasurer has no liability for "income or gain." This change clarifies that the Treasurer is not a fiduciary with a responsibility to manage noncash assets.
- Authorizing the Treasurer to order property be delivered. However, only the Superior Court of Wake County has the authority to enforce an order of the Treasurer.
- Requiring holders of property to file reports electronically starting January 1, 2020.
- Disallowing aggregate reports for assets that are securities.
- Explicitly authorizing refunds of property erroneously paid to the Treasurer.

Part II of the PCS also makes conforming changes to correct statutory references.

PART III. REQUIRE STRESS TESTING OF THE RETIREMENT SYSTEM AS RECOMMENDED BY THE PEW FOUNDATION

Section 9 adds two new subsections to G.S. 135-6 to require a pension stress test study every five years that would test the sustainability of the pension funds before and after every five-year experience review

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and report the results to the General Assembly and the Governor. This provision would also provide that the cost of producing the report would be paid for from the pension funds. This change in the law is recommended by the Pew Foundation.

PART IV. TECHNICAL CHANGES

Section 10 clarifies nothing in the existing law will be construed to: (i) permit a person to enroll or (ii) require the SHP to enroll a person in the Plan when that enrollment may jeopardize the Plan's preferential tax exempt status as a governmental plan under the Internal Revenue Code.

Section 11 updates the language of the Consolidated Judicial Retirement System (CJRS) funding policy statute to be consistent with the 2017 rewrite of TSERS and Local Governmental Employees' Retirement System (LGERS) funding policy statutes.

Section 12 updates the language of the National Guard Pension Fund's funding policy statute to be consistent with the 2017 rewrite of the TSERS and LGERS funding policy statutes.

Section 13 adds a new subsection in TSERS and LGERS to permit the Retirement System to provide a credit to an employing agency that paid an anti-pension spiking invoice on a retiree who subsequently was subject to a felony forfeiture that would have changed the amount of the anti-pension spiking invoice.

Section 14 adds a new section to define what constitutes an inactive employer in TSERS and LGERS. Requires an annual report to the Boards of Trustees by the Retirement Director of the agencies that were inactive at any point during the year.

Section 15 clarifies that building fee revenues should be reported by source and expenditures should be reported by object. This section becomes effective June 30, 2019.

Section 16 rewrites G.S. 135-18.1(a) to remove sections that applied to pre-1963 configuration of the Retirement Systems.

Section 17 repeals the following retirement statutes.

- G.S. 135-5.2 – Chapel Hill Utilities & Telephone Employees
- G.S. 135-13 – New Hanover County Teacher Pensions from 1919 & 1921
- G.S. 135-14– Merger of Internal Accounts for Pension Funds in 1983
- G.S. 135-14.1 – Treatment School Superintendents Serving Prior to 1957
- G.S. 135-16– Merger of Internal Funds in 1983
- G.S. 135-18.3– Social Security Referendum in 1955
- G.S. 135– Funding for Social Security Implementation in 1955-1959

Section 18 removes language related to services for blind employees who served prior to 1971.

Section 19 makes a technical correction to fix an incorrect reference to a repealed statute.

Section 20 adds a new subsection to the statutes on the Community Colleges 403(b) program to permit the administrative costs of the North Carolina Public School Teachers' and Professional Educators' Investment Plan to be charged to members or deducted from members' accounts.

Section 21 adds a new subsection and makes clarifying changes related to the 2017 provision requiring that chief financial officers of participating employers transmit a copy of pension spiking "watch reports" to chief executive officers and to governing boards and provides that if an agency has a governing board, the report must be transmitted to that board. This section also provides that for purposes of transmitting this report to the agency's governing board, the information contained therein is to be treated as a

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confidential retirement record as if it were still held by the Retirement System under the public records law.

Section 22 clarifies the irrevocability provision for employer participation in the State Health Plan.

Section 23 makes a technical correction to fix an incorrect statute reference.

Section 24 makes a technical correction to fix an incorrect statute reference.

PART V. WATER/WASTEWATER PUBLIC ENTERPRISE REFORM

Part V of the PCS for H777 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.*

CURRENT LAW & BILL ANALYSIS:

Sections 25(a)-(k).

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.

Effective October 1, 2019, of this Part of the PCS for House Bill 777 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."

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- 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 25(l). 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.

Effective October 1, 2019, of this section 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 25(m). 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.

This section would specifically authorize interlocal agreements between local government units operating a public water system or public wastewater system.

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Section 25(n) 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 25(o) 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 provided, this act is effective when it becomes law.

Staff Attorneys, Greg Roney and Erika Churchill substantially contributed to this summary.