

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2023

H

1

HOUSE BILL 455

Short Title: Expedite Water/Wastewater Franchise Transfer. (Public)

Sponsors: Representatives Arp, Johnson, Winslow, and Strickland (Primary Sponsors).
For a complete list of sponsors, refer to the North Carolina General Assembly web site.

Referred to: Energy and Public Utilities, if favorable, Rules, Calendar, and Operations of the House

March 23, 2023

A BILL TO BE ENTITLED

AN ACT TO EXPEDITE TRANSFER OF WATER OR WASTEWATER PUBLIC UTILITIES.

The General Assembly of North Carolina enacts:

SECTION 1.(a) G.S. 62-111 is amended by adding a new subsection to read:

"(f) The following provisions apply to an application for the grant or transfer of a certificate of public convenience and necessity for a water or wastewater system:

(1) Within 30 days of the filing of such application, the Commission shall (i) determine whether or not the application is complete and notify the applicant accordingly and (ii) if the Commission determines an application is incomplete, specify all such deficiencies in the notice to the applicant. The applicant may file an amended application or supplemental information to cure the deficiencies identified by the Commission for the Commission's review. If the Commission fails to issue a notice as to whether or not the application is complete within the requisite 30-day period, the application shall be deemed complete. Within 300 days of the filing of a completed application, the Commission shall issue an order approving the application upon finding that the proposed grant or transfer, including adoption of existing or proposed rates for the transferring utility, is in the public interest, will not adversely affect service to the public under any existing franchise, and the person acquiring said franchise or certificate of public convenience and necessity has the technical, managerial, and financial capabilities necessary to provide public utility service to the public. The requirements of this subdivision shall apply (i) to any applications for grants or transfers of water or wastewater systems, except with respect to those governed by subdivision (2) of this subsection and (ii) only to grants or transfers sought as a result of a proposed sale of a privately owned water or wastewater system to a public or private entity.

(2) Within 30 days of the filing of such application, the Commission shall (i) determine whether or not the application is complete and notify the applicant accordingly and (ii) if the Commission determines an application is incomplete, specify all such deficiencies in the notice to the applicant. The applicant may file an amended application or supplemental information to cure the deficiencies identified by the Commission for the Commission's review. If the Commission fails to issue a notice as to whether or not the



1 application is complete within the requisite 30-day period, the application
2 shall be deemed complete. Within 210 days of the filing of a completed
3 application, the Commission shall issue an order approving the application
4 upon finding that the proposed grant or transfer, including adoption of existing
5 or proposed rates for the transferring utility, is in the public interest, will not
6 adversely affect service to the public under any existing franchise, and the
7 person acquiring said franchise or certificate of public convenience and
8 necessity has the technical, managerial, and financial capabilities necessary to
9 provide public utility service to the public. The requirements of this
10 subdivision shall only apply to (i) water or wastewater systems with an
11 unresolved notice of violation issued by the Department of Environmental
12 Quality within the 24-month period immediately preceding the date of
13 application and (ii) grants or transfers sought as a result of a proposed sale of
14 a privately owned water or wastewater system to a public or private entity.

15 (3) Prior to submittal of an application, and within 90 days of entering into an
16 offer to purchase agreement for a water or wastewater system, a proposed
17 purchaser shall have a pre-application conference with the Commission and
18 Public Staff to clarify application requirements, information on assets that
19 must be provided, and associated matters.

20 (4) An applicant for the grant or transfer of a certificate of public convenience
21 and necessity for a water or wastewater system may waive any deadline for
22 determination of an application's completeness, or issuance of an order
23 approving an application, set forth in subdivision (1) or (2) of this subsection."

24 **SECTION 1.(b)** The following provisions apply to applications for the grant or
25 transfer of a certificate of public convenience and necessity for a water or wastewater system
26 pending on the date this act becomes law:

27 (1) Notwithstanding the requirements of G.S. 62-111(f), as enacted by Section
28 1(a) of this act, the Commission shall:

29 a. Within 30 days of that date, determine whether the application is
30 complete and specify any deficiencies in a notice to the applicant. The
31 applicant may file an amended application or supplemental
32 information to cure any deficiencies identified by the Commission for
33 the Commission's review. If the Commission fails to issue a notice as
34 to whether or not the application is complete within the requisite
35 30-day period, the application shall be deemed complete.

36 b. Issue an order approving the application no later than 180 days after
37 the date this act becomes law, or the filing of a completed application,
38 whichever is later, if the Commission finds that the proposed grant or
39 transfer, including adoption of existing or proposed rates for the
40 transferring utility, is in the public interest, will not adversely affect
41 service to the public under any existing franchise, and the person
42 acquiring said franchise or certificate of public convenience and
43 necessity has the technical, managerial, and financial capabilities
44 necessary to provide public utility service to the public.

45 (2) An applicant for the grant or transfer of a certificate of public convenience
46 and necessity for a water or wastewater system may waive any deadline for
47 determination of an application's completeness, or issuance of an order
48 approving an application, set forth in subdivision (1) or (2) of this subsection.

49 (3) The requirements of this section shall only apply to grants or transfers sought
50 as a result of a proposed sale of a privately owned water or wastewater system
51 to a public or private entity.

1 **SECTION 2.** This act is effective when it becomes law. G.S. 62-111(f), as enacted
2 by Section 1(a) of this act, applies to applications for grant or transfer of certificates of public
3 convenience and necessity filed on or after that date.