

HOUSE BILL 1715

By Marsh

AN ACT to amend Tennessee Code Annotated, Title 7;  
Title 65 and Title 68, relative to water and waste  
systems.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. This act shall be known and may be cited as the "Water and Waste Assistance Act".

SECTION 2. Tennessee Code Annotated, Section 65-4-112, is amended by adding the following language as a new subsection (c).

(c)

(1) A public utility may acquire any water or sewer utility system owned by a county or municipality, any special district regulated by title 7 that provides water or sewer services, any public utility regulated by title 65 that provides water or sewer services, and any other entity providing any water or sewer service in the state if the utility to be acquired:

(A) Regularly provides water, sewer, or sewage disposal services;

(B) Obtains approval, by ordinance or resolution from its governing body, for such acquisition by agreeing to transfer or sell all of its property, obligations, authority, assets, or rights to the acquiring public utility; and

(C) Simultaneously files petitions with the utility management review board and the county mayor of the county where the utility to be acquired was created, if applicable. Any petition made pursuant to this

subdivision (c)(1)(C) shall not be subject to approval or disapproval by the utility management review board or the county mayor as set forth in §§ 7-82-201(a) and 7-82-202(a) or any other section in title 7, chapter 82 that grants approval or disapproval rights of an acquisition of the type contemplated by this subsection (c) to any person or entity other than the Tennessee regulatory authority pursuant to subdivision (c)(2).

(2) A public utility that seeks to perform an acquisition under this subsection (c) shall obtain approval from the Tennessee regulatory authority pursuant to title 65.

(3) A public utility that seeks to perform an acquisition under this subsection (c) shall be entitled to the regulatory treatment prescribed in § 65-4-127.

(4) Any acquisition contemplated under this subsection (c) shall be conducted according to § 65-4-127.

(5) Any distressed water or wastewater system that willingly agrees to undertake feasible and appropriate changes in operations may be available for purchase by a public utility depending on Tennessee regulatory authority approval.

SECTION 3. Tennessee Code Annotated, Title 65, Chapter 4, Part 1, is amended by adding the following language as a new section:

65-4-127.

(a) As used in this section, “subject utility” means any water or sewer utility system owned by a county or municipality, any special district regulated by title 7 that provides water or sewer services, any public utility regulated by title 65 that provides water or sewer services, and any other entity providing any water or sewer service in Tennessee, that any public utility as defined in § 65-4-101 seeks to acquire.

(b) A public utility shall be entitled to the following regulatory treatment in conjunction with the acquisition of any subject utility:

(1) The purchase price relative to any acquisition of any subject utility shall be a price negotiated in good faith; and

(2) A public utility acquiring any subject utility shall be able to include the entire negotiated purchase price, including necessary legal and other fees associated with the closing of the acquisition, in the public utility's rate base for full recovery relative to a return on the purchase price and the associated closing costs.

SECTION 4. Tennessee Code Annotated, Section 65-4-101, is amended by adding the following language as a new, appropriately designated subdivision:

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(8) A "distressed water or wastewater system" means a system that is comprised of, but not limited to, the following conditions:

(A) Financially distressed due to one (1) or more of the following:

(i) A deficit total net assets in any one (1) year;

(ii) A negative change in net assets for two (2) consecutive years;

(iii) Financially unable to expand the amount or type of services;

(iv) Currently in default on any debt instruments; or

(v) Any indebtedness;

(B) Operational inefficiencies;

(C) Aging infrastructure;

(D) High percentage of unaccounted for water;

(E) Personnel infractions;

(F) Federal, state and local environmental and ecological non-compliance;

(G) Federal water quality standards non-compliance;

(H) Supply is dependent on an unreliable water source; or

(I) Any other conditions determined by interested parties that causes distress to a water or wastewater system.

SECTION 5. Tennessee Code Annotated, Section 68-221-1203(6), is amended by deleting the subdivision in its entirety and by substituting instead the following language:

(6) "System" and "water system" means the community public water systems of a county, incorporated town or city, metropolitan government, public utility, utility district formed pursuant to title 7, chapter 82, water/wastewater authority, energy authority, state agency, or an instrumentality of government created by any one (1) or more of these or by an act of the general assembly as well as such governmental entity.

SECTION 6. Tennessee Code Annotated, Section 68-221-1206(f), is amended by adding the following language as a new subdivision (11):

(11) For loans to public utilities for the purpose of acquiring a water system under the same rates and conditions as to any other water system entity.

SECTION 7. Tennessee Code Annotated, Section 68-221-1002, is amended by deleting the existing subdivision (2) in its entirety and by substituting instead the following language:

(2) Provide local governments and public utilities, as defined in § 65-4-101, in the state with low-cost financial assistance relative to necessary wastewater facilities through the creation of a self-sustaining revolving loan program so as to improve and protect water quality and public health; and

SECTION 8. Tennessee Code Annotated, Section 68-221-1003, is amended by adding the following language as a new subdivision (10):

(10) "Public utility" as defined in § 65-4-101.

SECTION 9. Tennessee Code Annotated, Section 68-221-1006, is amended by deleting subsection (a) in its entirety and by substituting instead the following language:

(a) Loans shall be made to local governments or public utilities that:

SECTION 10. Tennessee Code Annotated, Section 68-221-1006(a), is amended by adding the following language as a new subdivision (9):

(9) In the case of a loan to a public utility for acquisition purposes, the public utility must comply with subdivisions (a)(2) through (a)(7).

SECTION 11. This act shall take effect upon becoming a law, the public welfare requiring it, and shall apply to all contracts entered into or renewed on or after the effective date of this act.